In The Matter Of:

THE PEOPLE OF THE STATE OF CALIFORNIA, ET AL v.
PHILIP MORRIS, INC., ET AL

PATRICIA ITTERMANN
June 17, 1998

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
CASE NO 980864

THE PEOPLE OF THE STATE OF CALIFORNIA et al
Plaintiffs
v
PHILIP MORRIS, INC , et al ,
Defendants

Video deposition of PATRICIA ITTERMANN
(Taken by Plaintiffs)
Winston-Salem, North Carolina
June 17, 1998

Reported by Andrea L Nobrega
Court Reporter
Notary Public

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO 95-7076-J

COMMONWEALTH OF MASSACHUSETTS,
Plaintiff,
v
PHILIP MORRIS, INC , et al ,
Defendants

Video deposition of PATRICIA ITTERMANN
(Taken by Plaintiffs)
Winston-Salem, North Carolina
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Deposition of PATRICIA ITTERMANN, taken by the Plaintiffs, at 200 West Second Street, Winston-Salem, North Carolina, on the 17th day of June, 1998 at 9 47 a m , before Andrea L Nobrega, Court Reporter and Notary Public

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PROCEEDINGS

Whereupon, PATRICIA ITTERMANN, having been duly sworn, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFFS
BY MR. SOBOL:

Q: Good morning, please state your name for the record.

A: My name is Patti Ittermann, Patricia Ittermann I go by Patti.

Q: Ms. Ittermann, you are here on behalf of R.J. Reynolds Tobacco Company, is that correct?

A: That's correct

Q: Do you understand that this is a deposition proceeding in two lawsuits pending against R.J. Reynolds Tobacco?

A: Yes

Q: And other defendants as well?

A: Yes

Q: My name is Michael Sobol. I'm an attorney in California from the law firm of Lieff, Cabraser, Heiman & Bernstein in San Francisco, and I represent The People Of The State Of California, et al., against R.J. Reynolds. Do you understand that?

A: Yes, sir.

Q: I am also here on behalf of Attorney General, Scott Harshbarger from the Commonwealth of Massachusetts. Do you understand that?

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A: Yes.

Q: Have you ever been deposed before, ma'am?

A: No.

Q: I am going to be asking you questions today and you are to give answers to my questions while you are under oath. If at any time you don't understand my question, let me know. If you didn't hear me, let me know. If you need to take a break and confer with counsel while a question is not pending, let me know, because I want to make sure that the answers that you give are to questions which you can hear and understand, okay? Is that agreed?

A: Yes

Q: Okay, very good. Can you give me your current position at R.J. Reynolds?

A: I have an internal title at R.J. Reynolds as senior manager, media. I have an external title, media director.

Q: I'm sorry, the first one was what?

A: Senior manager, media.

Q: Within R.J. Reynolds Tobacco you have the title senior manager of media?

A: Yes.

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Q: And to the outside world you hold yourself out as the media director?

A: That's correct.

Q: Are there other persons at RJR who hold themselves out as media director to the outside world?

A: No.

Q: Are there other people within R.J. Reynolds Tobacco who refer to themselves as a senior manager of media?

A: No.

Q: How long have you been in that position?

A: I have been a senior manager since 1990.

Q: How long have you been with Reynolds?

A: I have been with Reynolds since July of 1975.

Q: I am interested in hearing some of that background maybe a little bit later. First, let me ask you a little bit about your pre-Reynolds background. Where did you go to high school?

A: I went to high school at St. Thomas High School in Ft. Thomas, Kentucky.

Q: What year did you graduate?

A: 1965.

Q: Did you go on to college after that?

A: I went to college two years right after

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high school, and then I completed college later in my life I have a degree from High Point University.
Q: When did you get your degree from High Point University?
A: Did you say when?
Q: Yes
A: In 1982
Q: What was that degree?
A: Communications
Q: Is that a BA?
A: Yes
Q: Where did you go to college before you went to High Point?
A: Eastern Kentucky University.
Q: You were there from about 1965 to 1967?
A: Yes, that would be right.
Q: But you didn't get a degree from Eastern Kentucky?
A: No, sir.
Q: What did you do from 1967 until - well, let me ask you this What did you do after you left Eastern Kentucky?
A: I worked at Proctor & Gamble in Cincinnati.
Q: Doing what?
A: I was a secretary.

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Q: In what part of Proctor & Gamble?
A: In the media section of the general advertising department.
Q: What were your responsibilities?
A: I was the secretary to the director of print media
Q: What was print media as that term was used at Proctor & Gamble during the time you were there?
A: It was Proctor & Gamble advertising and magazines or newspapers, any kind of periodical.
Q: As a secretary to the print media manager -
A: Director
Q: Did you have any executive responsibility?
A: I did basically secretarial duties, dictation, typing, filing, organizing meetings.
Q: And how long were you a secretary of Proctor & Gamble in the media section?
A: I believe it was until 1970. It was from '67 to 1970.
Q: What did you do next?
A: My husband and I relocated to North Carolina, but I did not work for a few years. I was raising my daughter.
Q: What was the next professional employment you had after leaving Proctor & Gamble?
A: Actually went back to Proctor & Gamble for a very short time after we moved back as a secretary. I don't know what year that was, probably 1974, and then we relocated again to North Carolina, and then my next job was at Reynolds.
Q: Where is Proctor & Gamble located?
A: In Cincinnati, Ohio.
Q: And that's where you worked?
A: Yes.
Q: Now, have you been with RJR continuously since 1975?
A: Yes.
Q: Coming up on your 23rd anniversary with them?
A: That's correct.
Q: What was your first position at RJR?
A: My first position was a stenographer.
Q: Take shorthand or you used to?
A: Yes, used to.
Q: Do you any longer?
A: No, I haven't for quite awhile.
Q: Are you a certified court reporter? Were you ever?
A: No.

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Q: Were you?
A: No, I was not.
Q: And which department did you work in as a stenographer?
A: Marketing.
Q: What kinds of things would you be stenographing?
A: Just general business correspondence. I also did typing from drafts and I did filing.
Q: Were you taking dictation of live meetings?
A: No.
Q: As a stenographer, were you a typist or something in addition to that?
A: I did general secretarial duties, just the title was stenographer.
Q: How long were you a stenographer in marketing?
A: I think it was only about a year and a half before I was actually promoted to secretary.
Q: Was that still in the marketing department?
A: Yes.
Q: All your 23 years have been spent in marketing?
A: No, part of them at the department called media.

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Q: That's not within marketing?
A: It's in marketing operations, but not - yeah, I guess overall it is marketing, yes.
Q: How long were you a secretary in marketing?
A: I joined the media department in 1981 as a media planner.
Q: From 1977 to 1981, you were a secretary in the marketing department?
A: That's correct.
Q: In 1981, what was your title?
A: Media planner.
Q: What were your responsibilities as media planner?
A: My responsibilities were to develop the media plans and implement the media plans for my assigned brands.
Q: Are you familiar with RJR Tobacco's current business brand units?
A: Yes.
Q: And as a media planner, were your responsibilities similar to those who are now in the business brand units?
A: No.
Q: Were the business brand units in operation in 1981 when you were a media planner?

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A: Not in the business unit concept. It was more of a brand group concept.
Q: How long were you a media planner for Reynolds?
A: Until 1985.
Q: What brands did you have assigned to you as a media planner during the years 1981 to '85?
A: As I recall, my primary brands were More cigarettes, Now cigarettes, Work Horse and R.J. Gold. That's all I recall.
Q: Were you a media planner for More cigarettes during the entire time you were a media planner?
MR. BEACH: Object to the form of the question. It's confusing.
BY MR. SOBOL:
Q: I am trying to get a sense of - you were a media planner for four years?
A: Yes.
Q: And you had brands assigned to you during that four year period?
A: Yes.
Q: Was More cigarettes, was that a brand assigned to you the entire time?
A: I don't remember if it was assigned the

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entire time.
Q: Did you assist in developing media plans for More cigarettes during the time you were a media planner?
A: Yes.
Q: Why don't you first tell us what a media plan is?
A: A media - well, I don't know how to start describing it, but a media plan is a plan for the vehicles that will be used, the mediums that will be used to carry a brands advertising. It's generally for the period of one calendar year, and it encompasses the media strategies and the media tactical plan which is the details of the plan such as which magazine titles and which cover dates our ads will run in.
Q: Media plans were generally developed during that period of time on an annual basis?
A: That's correct.
Q: Would the media plan assist in development of the advertising content?
A: I'm sorry, I don't understand the question.
Q: As part of your responsibilities as a media planner during those four years, would you assist in development of the advertising content?
A: No. That was a job that the brand group

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was responsible for.
Q: Did the brand group during that period of time work in conjunction with any outside independent contractors in developing advertising content?
A: Yes, they did. They would have had a creative agency.
Q: And that would have been an advertising agency?
A: Yes.
Q: And during that period of time, was Long Hames & Carr working with the brands group in developing advertising for the cigarettes for which you had responsibility as a media planner?
MR. BEACH: Let me object to the form of the question on the grounds that you haven't laid a foundation that she would know about advertising content. With that objection in mind -
MR. SOBOL: I will ask foundation questions. I think it's obvious she has to work with the advertising content in order to develop her media plan.
Let me first ask you, was Long Hames & Carr one of the advertising agencies that the brands group worked with during this period of time?
THE WITNESS: I don't recall. I don't

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recall it being the agency for any of the brands that I was working on as a media planner.

BY MR. SOBOL:

Q: So they may have, you just don't remember?

A: I just don't remember.

Q: Do any advertising agencies come to mind that did work with the brands group on the brands for which you were responsible?

A: I can name some advertising agencies, but it's been so long that I don't really recall which brands were assigned to which advertising agency.

Q: During that period of time anyway?

A: Right, during that period of time.

Q: Now, as a person assigned to develop media plans for these assigned brands, were you aware of the advertising content for those brands?

A: I sometimes saw the ad executions that would be running, but not always. I was more interested in the size of the ad because that's what we had to plan for it within the media plan.

Q: The annual media plans, did you assist in drafting those four assigned brands?

A: The media plans?

Q: Yes

A: Yes

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Q: Did they make reference to the advertising content for the particular brands?

A: I don't recall, but generally they would only talk in terms of the space configuration, the size and coloration of the ads.

Q: In making a decision about the size or coloration of the advertising, was it important information for you as a media planner to understand what the advertisement would look like?

A: It was important for me to understand the size and the coloration of the ads that were planned so that I could cost them out, how much it was going to cost to place those ads.

Q: My question is whether or not the content in the advertisement ever informed one of your decisions about where to put it, what size, what color it should be, anything that would have been part of the immediate tactical plan?

A: No, no, it did not.

Q: Can you tell me what a media strategy is?

A: A media strategy is just an outline of how the full media plan will be developed in order to achieve the brand's overall marketing objectives.

Q: Who developed marketing objectives?

A: That would be the brand marketing area.

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Q: So would your media plan make reference to the brands marketing objectives?

A: It would make reference to some overall objectives, such as the brand's target audience, any special timing of activity that they would want the media plan to also coincide with and an overall objective like generate awareness of the new advertising campaign or something like that.

Q: Was there anything about the marketing objectives developed by the brand groups that wouldn't be contained in your media plan for which you are aware?

A: I'm sorry, can you ask that again?

Q: Did your media plans make reference to the full marketing objectives developed by the brand group?

A: No, they did not. They only talked about the media, how media was going to be used by our brands within the total marketing mix, but it didn't make reference to the other parts of the marketing mix.

Q: In order to achieve the overall marketing objectives developed by the brand groups, did you need to be aware of all aspects of the overall marketing objective?

A: No. We took our guidance - would take our guidance from the brand group, and it's often not important that we know the other areas, only when it's

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relevant to media and media plan development.

Q: Would the brands group develop an analogous marketing plan on an annual basis - strike that.

Would the brand group develop an annual marketing plan - one more time.

Did the brand group, in fact, during this time you were a media planner develop annual marketing plans?

A: Yes.

Q: And would they communicate those marketing plans to the people in the media group?

A: As I recall, it wasn't the general practice. They may have occasionally sent a notebook of the marketing plan management presentation. It would be a boiled down summary that was presented to management and that someone in media may also get a copy of. They tended to be after the plans were already completed, though, the plan is done including the media plan, this is how it was presented to upper management.

Q: What about today, does the business brand units, do they develop an annual marketing plan?

A: Yes, they do.

Q: And do they communicate that plan to you as the senior manager of media?

A: No, I have not seen the full marketing plan

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for any of the brands.
Q: When was the last time you saw a marketing plan for any of the brands during your time at RJR?
A: I don't recall.
Q: Are you aware generally today of the marketing objectives for the various brands as developed by the business brand units?
A: In general terms in particular as they relate to media plan development, yes.
Q: Going back to 1981 to 1985, you mentioned that you worked on the More, Now, Work Horse and R.J. Gold brands, is that correct?
A: That's correct.
Q: Is Work Horse, is that a brand that's still on the market?
A: I don't know if it's on the market. R.J. Reynolds sold that division that included Work Horse and R.J. Gold several years ago, I don't recall when. It was a division that had piped tobacco or chewing tobacco.
Q: Was Work Horse a cigarette?
A: No, it was a chewing tobacco, so was R.J. Gold.
Q: Did RJR sell that division during the time that you were a media planner assigned to those brands?

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A: No.
Q: During the time that you were assigned to Work Horse, what was the target audience of the media?
A: I don't recall. For Work Horse and R.J. Gold I didn't personally develop the full media plan. It was handled primarily by the brand group and their advertising agency. Who also bought the media for the chewing tobacco brands. My role for R.J. Gold and Work Horse was more monitoring the budget, kind of summarizing the media activity.
Q: Let me ask you just one at a time. What do you recall, if anything, about any of the marketing objectives about Work Horse?
A: I don't recall anything.
Q: Do you recall whether or not a specific demographic group was targeted?
A: I don't recall, I'm sorry.
Q: What about R.J. Gold, do you remember anything at all about the marketing objectives for that?
A: No, I don't.
Q: Do you remember if any demographic group was targeted through the marketing of that product?
A: I'm sorry, it's just too long ago, I don't remember
Q: With More and Now cigarettes, were you more

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involved with development of the media plan for those two brands?
A: Yes.
Q: Those are both cigarettes, of course, right?
A: Yes.
Q: What do you recall about the marketing objectives for More cigarettes during the time that you were a media planner?
A: I don't recall specifically, but during the time I was the media planner they introduced the line extension More Lights, and so one of the marketing objectives would be the successful introduction of the line extension.
Q: Do you remember any aspects of the marketing objectives for More that were to enhance its likelihood that the line extension would be successful?
MR. BEACH: Can you repeat the question?
BY MR. SOBOL:
Q: I will rephrase it. Do you remember anything specific about the marketing objectives relating to the line extension of More cigarettes?
A: I can remember - around the marketing objectives, no. As they applied to media, there was a demographic target. I don't recall exactly what it was.

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As I recall, it was female smokers 25 and older and that's really all I remember. That may not be exact, but that's kind of what I remember from that long ago.
Q: And that demographic target of females 25 and older, did that relate to More Lights specifically?
A: Female smokers 25 and older, it probably was the - and I don't recall, I'm speculating here, but it was probably for the entire More line, the regular More cigarettes as well as the More Lights.
Q: The entire line of More cigarettes was aimed at females?
A: The entire line of More cigarettes had a target audience that skewed to female smokers. That's not to say that some of the advertising may not have been seen by male smokers, but that was generally the target, female smokers, 25 and older.
Q: Do you remember any aspect of the media plan for the More line of cigarettes that was designed specifically to achieve this skewing towards females 25 and older?
A: I don't remember specifically, but it would have included a number of magazines in which we advertised, the magazines that would have had higher readership of female smokers over the age of 25.
MR. BEACH: I am going to belatedly object

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to the form of the question on the grounds that it misstated the witness' testimony.

BY MR. SOBOL:

Q: Would the media plan also have included a plan to advertise in magazines with higher readership among the 25 and older group?

A: Our media plans are designed for smokers, so they would have been designed to include magazines that had an average to higher readership of female smokers, 25 and older.

Q: What was the demographic target for the Now cigarette during the time that you were a media planner assigned to that brand?

A: Again, it's been quite awhile, I don't remember specifically, but as I recall, the Now cigarette target audience was adult smokers 35 to 49, I believe.

Q: Was there any gender target with the Now?

A: I don't recall I believe it may have been 60/40, female smokers versus male smokers 35 to 49.

Q: Was the marketing objective designed to target any specific gender with the Now cigarette?

MR. BEACH: Let me object to the form of the question on the grounds of lack of foundation. You haven't established that she knows what the objectives

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of the brand were at that time.

MR. SOBOL: That's why I'm asking her.

THE WITNESS: You were asking me for marketing objective? Can you repeat the question?

BY MR. SOBOL:

Q: Sure. I'm asking whether or not the Now cigarette was targeted towards any particular gender?

A: I think I stated this before in the previous question that in the media plan we may have had a skew for our target audience that was approximately 60 percent, 40 percent female smokers 35 to 49 versus male smokers 35 to 49.

Q: Thank you And with the More cigarette, what was the approximate skewing percentage male to female as best you can recall?

A: I'm sorry, I really don't recall.

Q: Was it greater than the Now? Was it more skewed towards female than the Now cigarette?

A: I don't recall.

Q: What did you do after you were media planner in 1985?

A: I was promoted to manager of media planning.

Q: And were you a manager of media planning until you became senior media manager?

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A: Yes.

Q: When did you become -

A: Senior manager, media planning, yes.

Q: When did you obtain your present title? You said since 1990, correct?

A: Yes, the senior manager part, not the external part.

Q: As a manager of media planning between 1985 and 1990, were you assigned to any specific brands?

A: Yes, I was.

Q: What brands were those?

A: Over that five year period I worked on several brands, including Now, Camel, Magna, Ritz and some brands that were test market brands.

Q: Did that include Premier?

A: No, it did not.

Q: What were the test market brands?

A: Horizon and Dakota.

Q: How long was Dakota test marketed?

A: I don't remember the length of the test market.

Q: Do you remember what year or years it was test marketed?

A: It was between 1985 and 1990, that's all I know. That's all I recall. I don't remember what year

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specifically.

Q: I should probably ask you generally what were your responsibilities as manager of media planning?

A: I again worked with brand groups developing and implementing media plans. I had media planners and buyers reporting to me, so I supervised the work of the media planners and buyers.

Q: In supervising the work of media planners, did you assist in development of media plans?

A: Yes.

Q: Was the purpose of the media plan to outline how it is that you were going to develop and achieve overall - I'm sorry, let me ask you that again.

What was the function of the media plan during this time that you were manager of media planning?

A: The media plan would be how we would utilize media to advertise our products in order to achieve overall marketing objectives.

Q: What aspects of the Dakota marketing objectives do you recall that the media group took into account in developing its media plan for that product?

A: Well, the overall marketing objectives initially would have been to introduce, successfully introduce Dakota cigarettes. From the marketing

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objective, we then developed media strategies
Q: How did the brands people determine what would be a successful way to introduce the Dakota?
MR. BEACH: Objection to the form of the question, lack of foundation.
BY MR. SOBOL:
Q: Did the marketing plan developed by the brands unit contain a strategy on how it is that the Dakota would be successfully introduced into the market?
A: Oh how it is - the overall marketing plan would have said we would utilize these elements in the marketing mix, including media. It may have included other elements, such as retail promotion, direct marketing, whatever, but the overall marketing plan would have said we would use media and allocate a portion of the total marketing to media, and from there we would develop the media strategies.
Q: Did the marketing plan for the Dakota contain any reference to a targeted demographic group?
A: It more than likely did and from that we would have developed the media - the same target audience would have applied to the media plan.
Q: What was the targeted demographic group?
A: I don't recall specifically, but I believe it was adult smokers 18 to 34.

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Q: Are you familiar with the term younger adult smoker as that term is used at Reynolds?
A: During that time period that we are talking about, that term was used at Reynolds, yes, younger adult smokers.
Q: What's your understanding of what a younger adult smoker is?
A: Generally it applied to smokers who were 18 to 34. It may - occasionally over the years it may have been a primary target of smokers 18 to 34 with emphasis on smokers 18 to 24.
Q: Now, during the course of the deposition today I imagine you will take the position that Reynolds doesn't advertise or target non-smokers, is that right?
MR. BEACH: Let me just - I take that question more as a speech. Why don't you ask a question.
BY MR. SOBOL:
Q: Does Reynolds advertise to non-smokers in order to entice them into starting smoking?
A: Absolutely not. Reynolds advertises our products only to adult smokers.
Q: And that's been true during the entire time you have been at Reynolds?
A: That's correct.

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Q: And Reynolds, of course, has made efforts to stop youth smoking, isn't that correct?
MR. BEACH: Let me object to this question. Mr. Sobol, this witness has been designated as a person most knowledgeable with respect to certain subject areas. You are venturing into an area that is outside of those areas which Ms. Ittermann is being made available to you. I would suggest that you limit your questions to those areas and to reasonable questions that relate to her background.
MR. SOBOL: I'm going to take that as a speech and I am going to continue to ask this witness what her understanding is about youth marketing as someone who carries out and executes marketing objectives for Reynolds for close to 20 years. I think that is well within what her experience is here and what it is that her group does, so -
MR. BEACH: You are perfectly entitled to ask those questions as she was the designated in response to your request for persons with knowledge into specific areas, and that's absolutely clear. It's also absolutely clear that we have designated somebody on the subject of youth non-smoking programs. That is the basis of my objection to your entering into this area.
BY MR. SOBOL:

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Q: Ms. Ittermann, as the manager of media planning from 1985 to 1990, were you aware of any efforts made by RJR to refrain from marketing to non-smokers under the age of 18?
MR. BEACH: Let me object to the question on the grounds of foundation. You haven't established that she would be a person with that knowledge and it's well - well, I understand that, but it's also well beyond her prior testimony as to her scope of employment with the company. That's the nature of my objection to the question
BY MR. SOBOL:
Q: Ms. Ittermann, you just testified that during the entire time you have been at Reynolds it hasn't advertised or sought to entice non-smokers into beginning smoking, isn't that correct?
A: We have only advertised to adult smokers.
Q: And do you have an understanding whether or not RJR has made efforts to inhibit youth smoking?
A: I am aware that Reynolds had - has a youth non-smoking program, but I was never involved in that program.
Q: And as someone working within media for 20 or so years, are you familiar with the youth market, what ages those would be?

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MR. BEACH: Objection to the form of the question for the use of the ambiguous phrase youth market

MR. SOBOL: I'm trying to get her understanding of it on the record. It's a term used in media planning. It's a term used in marketing. These are questions asking about her knowledge. I'm not trying to put words in her mouth. It's an open question

MR. BEACH: That's what I'm trying to clarify because she hasn't testified in any respect with respect to a youth market at this point in time, Mr. Sobol

BY MR. SOBOL:

Q: Are you aware of a youth market, that's what I'm asking her? Are you aware of a youth market?

A: You had originally prefaced the question with talking about my experience at Reynolds and -

Q: I'm asking a different question. I'm asking you whether or not you are aware of a youth market?

MR. BEACH: Object to the form of the question, that it's open, ambiguous.

BY MR. SOBOL:

Q: You don't understand that term?

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A: No. Can you clarify?

MR. BEACH: Consistent with your promise to the witness at the beginning of this deposition.

BY MR. SOBOL:

Q: Do you have an understanding that the younger adult smoker market was 18 to 34, is that correct?

A: That is what we considered adult smokers 18 to 34

Q: That was the younger adult smoker group, is that correct?

A: The younger adult smoker was an adult smoker 18 to 34.

Q: And sometimes there was a particular reference on some marketing plans on smokers 18 to 24, is that correct?

MR. BEACH: Objection to the form of the question on the grounds that it misstates the witness' testimony.

BY MR. SOBOL:

Q: Is that correct?

A: I'm sorry, can you repeat the question?

MR. BEACH: Let me add that that question has been asked and answered.

BY MR. SOBOL:

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Q: Are you aware of any marketing objectives in existence at Reynolds at any time during your experience there that targeted the younger adult smoker market for that portion of the market ages 18 to 24?

A: I don't recall any specific marketing plan objectives. I know how it would have been defined, the target audience would have been defined in our media plans.

During the time I have been at Reynolds there have been some media plans which have a target audience of adult smokers 18 to 34. In some cases there may have been target audience definitions of a primary target of adult smokers 18 to 34 with emphasis on adult smokers 18 to 24.

Q: Do you know whether or not Reynolds has ever targeted a market of 17 year olds?

A: Reynolds, as long as I have been at Reynolds, has had a target that was at least adult smokers 18 and over.

Q: Why is it that they wouldn't market to someone 17 years old?

MR. BEACH: Let me object to the form of the question.

MR. SOBOL: Let me rephrase it.

Are you aware of any reasons why it is that

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marketing objectives weren't designed to target a demographic group of younger than 18?

THE WITNESS: Reynolds advertises and markets its products only to adult smokers.

BY MR. SOBOL:

Q: I heard you. I am asking you, are aware of any reasons why the marketing objectives at Reynolds do not target people under the age of 18, why that is so?

MR. BEACH: Let me object to the form of the question on the grounds it's ambiguous and, Mr. Sobol, let me again repeat my objection to questions that stray outside of the designation for the subject of this testimony. You haven't established that Ms. Ittermann would be familiar with or participate in the formation of policies. She has obviously testified to what those policies are, so there is a foundation objection.

MR. SOBOL: Your speaking objections are improper under the California civil procedure and the Massachusetts civil procedure. You are coaching the witness with your speaking objections, and I will put a standing objection on the record as to making those kinds of objections. If you want to state the basis for your objection, you are entitled to do so.

I am asking her simply why it is they don't

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market to people 17 years.
MR. BEACH: And you haven't established that she knows why. Ask those questions first.
MR. SOBOL: Again, I have a continuing objection to you coaching her, which is obviously what you are doing
Are you aware of any reasons why it is that the RJR media objectives - strike that - marketing objectives do not target people under the age of 18?
MR. BEACH: Let me just repeat my objection on the record for the question straying from the scope of the notice of this deposition and this witness' background. You can answer his question.
THE WITNESS: I am aware that we market our products to adult smokers and, therefore, I have to assume that the definition of adult is over the age of 18, 18 plus.
BY MR. SOBOL:
Q: Have you heard the term younger adult smoker applied to those within the age group of 18 to 34 or 18 to 24 or both?
A: I have heard the term younger adult smoker applied to both smokers 18 to 34 and smokers 18 to 24.
Q: And as to those 18 year olds who comprise part of a targeted demographic group of which you are

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aware for some of the marketing objectives that you worked on over the years, are they people who are already smoking as well?
MR. BEACH: Objection to the form of the question as incomprehensible.
Could you repeat that, please.
(The record was read.)
THE WITNESS: Our target audience is always smokers, and as I have said before, it would have been smokers, adult smokers 18 to 34.
BY MR. SOBOL:
Q: So even those 18 year olds in the targeted demographic group would have been people who are smoking already, is that your testimony?
A: Our target is adult smokers.
Q: And you are using the term adult smokers now and not younger adult smokers. Is there any reason for that?
MR. BEACH: Objection to the form of the question.
THE WITNESS: I'm sorry, I don't understand.
BY MR. SOBOL:
Q: Are you uncomfortable with the term younger adult smoker?

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A: It's over the last several years we prefer the term adult smokers.
Q: Who is we?
A: R.J. Reynolds.
Q: Why do they prefer the term adult smokers opposed to younger adult smoker?
A: So that it cannot be deliberately misconstrued who our target audiences are and they are adult smokers.
Q: So your understanding adult smokers include 18 year olds who already have taken up the practice of smoking cigarettes?
MR. BEACH: Let me object to the form of the question on the grounds that we need to frame this in terms of some sort of a time. It's unclear to me whether you are talking presently or historically.
BY MR. SOBOL:
Q: During the time that you are aware that RJR targeted the demographic group of persons of the age of 18 to 24, it's your understanding that 18 year olds were adult smokers, is that correct?
A: First of all, you have misstated our target audience. I have always said that our target audience was smokers, not persons. Since about 1992 our target audiences have been adult smokers 21 and older. Prior

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to that, during the time I have been with Reynolds, we have had target audiences that are adult smokers 18 to 34.
Q: During the time that RJR targeted the 18 to 34 year age group, what efforts did you make as a member of the media group to ensure that those of the age of 18 were already smokers? Let me rephrase that.
What efforts did you make to make sure that the 18 year olds you were targeting were already smoking?
A: I'm sorry, that question is just - first of all, we were only targeting smokers.
Q: In your efforts to target only smokers including those who were between the ages of 18 and 24, what efforts did you make to ensure that your media was not exposed to those who were non-smokers?
MR. BEACH: Let me object to the form of the question on the grounds that it's ambiguous as to this scope. I trust that the question relates to her job duties in media planning. If that's not the question -
MR. SOBOL: Absolutely.
THE WITNESS: In developing media plans -
BY MR. SOBOL:
Q: Let me ask you it this way. In developing

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your media plans you target only smokers, is that correct?
A: Our target audience is smokers, yes.
Q: And you develop media plans to reach a targeted audience of smokers, is that correct?
MR. BEACH: Objection to the form of the question It misstates her testumony.
MR. SOBOL: Go ahead, you can answer that.
THE WITNESS: We develop media plans which have a target audience of smokers.
BY MR. SOBOL:
Q: How do you know they have a target audience of smokers?
MR. BEACH: Who is they?
THE WITNESS: I don't understand.
BY MR. SOBOL:
Q: How do you know the marketing plans have a target audience of smokers?
A: How do I know the marketing plans?
Q: Or the marketing objectives?
A: Because in order to develop the media plans we work with the brand marketing people and discuss what their overall marketing objectives are. That's how I know that they were designed to target smokers.
Q: And they tell you that they want the media

to reach adult smokers, is that correct?
A: They tell us that the media - and we develop a media strategy that a media plan is designed to reach a target audience of adult smokers.
Q: Are any efforts made to ensure that the media does not go out to those who don't smoke?
A: Media is such a broad term. I think -
Q: What's your understanding of the term?
A: Well, there is many different forms of media.
Q: You work primarily in magazine and outdoor advertising, is that correct?
A: That is our primary mediums, yes.
Q: Let's focus on magazines for a moment. What efforts do you make to ensure that the magazine media which you buy advertising space in does not reach nonsmokers?
MR. BEACH: Objection to the form of the question on the basis that it assumes facts not in evidence.
THE WITNESS: A target audience definition is that we are trying to design a media plan which reaches primarily this target audience of adult smokers.
In doing so, we evaluate each publication that is used by our brands to assure that its readers

are primarily an adult audience. We also will look at the research available on readership to assure that there is higher than average concentration of smokers within that adult audience.
MR. BEACH: Mike, we have been going about an hour. I would like to take a break.
MR. SOBOL: That's fine. Could I just ask one follow-up question on that last answer?
MR. BEACH: Sure.
BY MR. SOBOL:
Q: By higher concentration of smokers, what do you refer to in that? What do you mean by higher concentration?
A: Well, it's not an easy answer. It gets into how magazine research is conducted, but within the readership of a particular magazine, the composition of adult smokers can be determined by syndicated research and versus the - versus the composition of the total U.S. adult population that are smokers, and that would determine that that magazine has a higher composition of smokers.
Q: As compared to the entire United States?
A: Than does the U.S. adult population.
Q: As compared to the entire United States population?

A: The entire United States adult population.
Q: In making decisions where to put a magazine advertisement, you go for magazines with primarily an adult audience, is that right?
A: Any magazine that we use has primarily an adult audience, yes.
Q: And it's the policy of RJR now to ensure that the adult audience is primarily over the age of 23, is that correct?
A: You are talking -
Q: Today?
THE WITNESS: Today, our policy is to follow our industry advertising code and it has been since 1992, but can we take a break?
MR. SOBOL: Sure.
(Recess was taken from 10:50 a.m. to 11:08 a.m.)
BY MR. SOBOL:
Q: Ms. Ittermann, you are still under oath. Do you understand that?
A: Yes, I do.
Q: As the manager of media planning you were assigned for sometime to the Camel brand, is that correct?
A: That's correct.
Q: During the entire time that you held that

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position from 1985 to 1990?
A: Yeah. I believe I had Camel that - I was assigned to Camel that entire time.
Q: So that would include the period of time that the Joe Camel character was introduced into the United States market?
A: Yes
Q: Do you recall what the marketing objectives were for Camel during any of that period of time, that five years you were manager of media planning?
A: As I recall, and to put this in context, our marketing plans and target audience definitions do change sometimes year to year, but during that period of time I believe that Camel's target audience for its media plan was primary target of adult smokers 18 to 34 with an emphasis on adult smokers 18 to 24.
Q: During that five years, was there a target for any or skew towards any particular gender?
A: The gender skew, I believe, was male smokers 18 to 34.
Q: During the years '85 to '90, you didn't refer to them as adult smokers, you referred to them as younger adult smokers, this particular targeted group, is that correct?
A: I believe during that entire period, yes,

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we typically would have referred to them as younger adult smokers 18 to 34 or with emphasis on younger adult smokers 18 to 24.
MR. SOBOL: Off the record for just a minute.
(Brief discussion from 11:11 a.m. to 11:12 a.m.)
BY MR. SOBOL:
Q: Now, the younger adult smokers that were targeted in the Camel marketing plan from 1985 to 1990, of course, consisted of persons who are already smoking, is that correct?
A: Our target audience would have been smokers.
Q: Including 18 year olds who were already smokers?
A: As I have stated, I believe already, that, yes, the target audience was adult, younger adult smokers, 18 to 34
Q: And my question which specifically relates to the 18 year olds, would it then have been your understanding as someone who was effectuating the marketing objectives through a media plan that the 18 year olds began smoking prior to the age of 18?
A: I'm sorry, I don't understand your question. Can you rephrase it?

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Q: I am wondering how it is that these 18 year olds that Reynolds targeted were already smokers at the age of 18? Was it your understanding they had become smokers prior to the age of 18?
MR. BEACH: Let me object to the form of the question on the grounds that it misstates the witness' testimony with respect to the target.
BY MR. SOBOL:
Q: These 18 year olds who were among the targeted group for Camels during this time, you have stated were already smokers, correct?
A: I stated our target audience and it was a range of adult smokers between the ages of 18 and 34
Q: Did you have an understanding that the 18 year olds within that group began smoking prior to the age of 18?
A: I wouldn't have had any understanding of that. I would have only known who we were trying to reach with our media plan were adult smokers between the ages of 18 and 34.
Q: And of those 18 year olds within that group, it was your understanding that RJR wasn't trying to entice them into beginning smoking, is that correct?
A: Our target was smokers, adult smokers.
Q: It's a yes or no question.

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MR. BEACH: Excuse me, let me object to counsel - Patti, you are allowed to answer the question as you see fit, and let me additionally object that the question has been asked and answered.
BY MR. SOBOL:
Q: Reynolds wasn't trying to get 18 year olds to start smoking cigarettes, is that your testimony?
A: Reynolds was not trying to get non-smokers to smoke. We were - our advertising is designed to reach adult smokers and adult competitive smokers in particular so that they would smoke Reynolds' products instead of competitive products, but they were smokers.
Q: So the 18 year olds within that targeted group were already persons who had begun smoking prior to the age of 18?
A: I think you are asking me to speculate. All I can testify to is our target audience was adult smokers 18 to 34.
Q: Who did you report to during the time you were manager of media planning between 1985 and 1990?
A: I reported to a group planning manager. For most of that time I believe it was a gentleman named Tom McCabe.
Q: Was it ever Ed Blackmer during that time?
A: No.

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Q: Did you ever express to Tom McCabe any concerns that you personally had about targeting teenagers as part of the younger adult smoker in the Camel program?

A: I was working on media plans which targeted adult smokers 18 to 34, so I wouldn't recall if we were expressing concerns about our defined target audience.

Q: During that period of time you were referring to them as younger adult smokers, though, right?

MR. BEACH: Who is the you you are referring to in the question, Mike? Can you clarify that, please?

MR. SOBOL: You, the witness.

THE WITNESS: During that period of time we referred to adult smokers 18 to 34 as younger adult smokers, that's correct.

BY MR. SOBOL:

Q: And did you ever express any concern to Tom McCabe that you were targeting people who were teenagers as part of the 18 to 34 year old group?

A: I'm certain that I would not have because we were targeting adult smokers.

Q: Younger adult smokers, right?

A: Younger adult smokers 18 to 34.

Q: Did it concern you that teenagers were within the group of younger adult smokers that you were targeting?

A: I was targeting adult smokers, so I don't recall ever having thought like that.

Q: So you didn't express any concern to Tom McCabe that teenagers were included within this definition of younger adult smokers that you were targeting?

MR. BEACH: Let me object to the form of the question on the grounds that I think it misstates her testimony. Let me clarify that, with respect to the meaning of the term younger adult smokers.

BY MR. SOBOL:

Q: Did you ever express any concern to Tom McCabe about the fact that within the younger adult smoker targeted demographic group, there were teenagers included?

A: No, because we considered them, 18 to 34 year old smokers, adult smokers.

Q: You are the senior manager of media now within RJR, correct?

A: That's correct

Q: And you have held that position for approximately eight years?

A: That has been my - well, my title from 1990 to '93 was senior manager of media planning and in 1993 senior manager, media.

Q: Did your job responsibilities change as between those two titles?

A: Yes.

Q: And as senior manager of media planning from 1990 to 1993, what were your job responsibilities?

A: During that time I was similar to my prior responsibilities. I developed media plans, implemented media plans for my assigned brands.

Q: Did you work with the brands unit in that regard?

A: Yes, during that period of time that you are speaking about, 1990 to 1993, I worked primarily with the Winston business unit.

Q: Did you work with an independent contractor advertising agency?

A: At that time I didn't personally work with them. Our brand creative continued to be done by advertising agencies.

Q: And in connection with the Winston brand during that period of time, who was the agency?

A: During that period of time we introduced Winston Select and the agency was Trone Advertising in

Greensboro.

Q: T-r-o-n-e?

A: Yes.

Q: What was the targeted demographic for Winston Select?

A: I don't specifically recall. I believe it was adult smokers 21 to 34.

Q: When was Winston Select introduced?

A: I believe it was 1991.

Q: Any other demographic group targeted other than adult smokers from 21 to 34?

A: Not that I recall.

Q: Was there a skew towards a particular gender?

A: As I recall, it was 50/50 male to female adult smoker skew.

Q: So actually no skew?

A: No skew.

Q: What about an average household income, was there a targeted average household income?

A: I don't recall that we had a defined target household income.

Q: What about minorities, was a minority or a particular ethnic group targeted?

A: I don't recall that there was.

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Q: The demographic profile that was targeted for the Winston Select, how is it that your media group obtained that information?
A: Well, as I stated previously, the media plan strategies are based on the overall marketing strategies which are determined by the brand group.
Q: How is it that the brand group communicates this information to your media group?
A: The information is communicated many ways. It can be written. It can be face to face in meetings.
Q: Where is the media group located? What's your address? Where is the building?
A: Currently?
Q: Yes.
A: Currently where my office is, is that what you are asking me?
Q: Yes.
A: I am in the Reynolds building at Fourth and Main Street in Winston-Salem.
Q: Downtown?
A: Yes, downtown Winston-Salem.
Q: And is the business unit there as well?
A: It is in the same building.
Q: Are you close by one another?
A: Currently I am on a different floor than -

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I don't think there are any brand groups on the same floor as I am.
Q: People from the media group come in regular contact with people from the brands unit?
A: Well, do you mean in the course of business or just seeing each other in the elevators.
Q: In the course of business.
A: In the course of business we often have meetings together.
Q: And just so I understand, during this time frame we are talking about currently when you were senior manager of media planning from 1990 to 1993, it wasn't the regular practice for the business units to provide the marketing, written marketing plans to the media group?
A: I don't recall that there was a standard practice.
Q: Was it more likely than not that in connection with the various brands that you would, you being the media group, would receive the marketing plans from the brands unit?
A: Wait a minute, I'm sorry -
Q: Is it more likely than not that the business unit provides their marketing plans to the media group?

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A: That is not likely.
Q: Other than through the marketing plans, what kind of written communication is given from the business unit to the media group in connection with the marketing plans or the marketing objectives?
A: Well, as I think I stated earlier, sometimes the communication is verbal.
Q: My question is, other than the formal annual marketing plan developed by the business units, how is it that the business unit communicates in writing to the media group regarding its marketing objectives?
A: I'm sorry, I do not understand what you mean by how is it that they communicate in writing.
Q: Do they send memos? Do they send E-mails? Is there some other form of document which your two groups regularly communicate?
A: If you are asking if there is a standard form of written document, no, there isn't. It could be any of those.
Q: It could be any of those, and in fact, all those examples are examples which in the course of business are used to communicate between groups?
A: Well, I would have to be certain what time frame you are talking about. Are you talking about the '90 to '93?

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Q: Yes, I am.
A: Because during those years we did not have E-mail.
Q: But you would communicate through inter-office memo?
A: We could. I mean, that's one of the forms of communication, but like I said earlier, there was no standard way of communicating.
Q: Was most of the communication done orally then?
A: I can't say. I can't answer that question. I can't recall if most of it was written or most of it was verbal.
Q: Now, going back to the Winston Select, once you had this demographic targeting data developed by the business unit, what would you do with it?
A: Once I understood what the marketing objectives were and the objectives would include the target audience definition, but not be limited to that, I would develop a media plan and - we are still talking the years 1990 to '93. I would develop a media plan.
Q: What other information would be communicated from the business unit to the media group other than the targeted demographic groups?
A: If you are talking for the Winston Select

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introduction -
Q: Sure, as an example.
A: They would communicate what configuration the print advertising executions would be. As an example, would they be four color, would they be two color, would they be single pages, would they be spreads, so that I would be able to plan within the budget They would give me some budget parameters for media
The reason I asked if you were specifically talking about Winston Select is in that case that would be probably all of the information that they would need to give to me so that I could develop a media plan.
Q: Generally speaking, not necessarily limited to Winston Select, but would there be other information which you haven't testified to that the business unit would ordinarily provide you?
A: There may be information on if there is any geographic skew.
Q: Anything else come to mind?
A: Timing of retail promotions perhaps that they would like to have supported by media advertising, and that's probably really it.
Q: Was the Winston Select targeted to any particular geographic skew?

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A: As I recall, no, it was not because it was a national introduction.
Q: Now, when you became the senior manager of media or the media director as you hold yourself to the outside world, did your job responsibilities change?
A: At the end of 1993, yes, they did.
Q: And what in addition to developing media plans and implementing media plans was part of your new job responsibilities?
A: Well, first I need to put it into context. Prior to the end of 1993 R.J. Reynolds had an in-house media department that developed and implemented all of our media plans. At the end of 1993, R.J. Reynolds out-sourced the media planning and buying to an advertising agency, Long, Hames & Carr.
Q: Just so the record is clear, can you tell me what post-1993 media planning consisted of that was done by Long, Hames & Carr?
A: Well, I'm not real sure I understand what your question is. I can tell you how my personal responsibilities changed.
Q: We'll get to that, but I'm sure that in connection with doing your job you must have some understanding of what tasks were being out-sourced to Long, Hames & Carr. Did you?

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A: Absolutely. Long, Hames & Carr now does the media planning and implementation of our brand plans.
Q: Just so the record is clear, can you describe to me the nature of the media planning that Long, Hames & Carr does on behalf of R.J. Reynolds?
A: I don't understand what you mean. I mean, the basic process of developing and planning - I mean developing and implementing the media plan did not change. The only thing that changed was prior to the end of '93, it was done by the in-house media department, and after that it was done by this out-sourced independent contractor.
Q: Let's try and get a full record, Ms. Ittermann -
A: But the process is still the same.
Q: Can you describe the process of media planning as it was carried out by Long, Hames & Carr on behalf of R.J. Reynolds?
A: The process is, like I said, the same as it always has been for developing media planning and implementing the media plan. The change lies in that I direct the media plan development, and I am the primary person who works with the brand group to develop the media strategies.

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Q: I appreciate that. I want you to describe, again, the process of media planning?
A: All right.
Q: As it's done by Long, Hames & Carr?
A: Certainly. The media strategies are developed and approved by the brand. From the media strategies a media tactical plan is developed. That's simply the details of the media plan. You asked me for the planning part of it, right?
Q: Yes, and now can you describe, please, the nature of media implementation as it's carried out by Long, Hames & Carr on RJR's behalf?
A: Media implementation means really whether it was done in-house or at Long, Hames & Carr, the actual purchase of the approved plan.
Q: Can you describe what you mean by purchase of the approved plan?
A: The out of field advertising would be purchased, the magazines on the plan would be purchased, the supplier, the media supplier. There would be cost negotiations, etc. Long, Hames & Carr also gets the invoices for all of our media activity, the purchases that they have made.
We at Reynolds approve the invoices. Implementation also includes monitoring the media which

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has been purchased to assure that the suppliers are complying with all of our instructions
Q: To make sure it's there?
A: Make sure it's there
Q: And post-1993 you oversee the development of the media plan as it's developed by Long, Hames & Carr?
A: Yes, I do, for all of our brands
Q: What do you do in connection with overseeing the development of the media plans for all of the brands?
A: I work with the brand groups to develop and get approval for media strategies I work back and forth between Long, Hames & Carr and the brand group to make sure that there is full approval of the strategies.
I work with - Long, Hames & Carr develops the actual plan I oversee that. The plan is then presented to the brand group. That may be done by myself or myself and Long, Hames & Carr, which is usually the case. Once the plan is approved, then Long, Hames & Carr orders it and I oversee all of the activity that has been ordered and the tracking of compliance and spending.
Q: Do the brand groups in Long, Hames & Carr work directly or are you an intermediary?

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A: I'm an intermediary.
Q: So they don't work directly?
A: Not usually. There have been cases if I was out of town or something the brand might contact LHC directly.
Q: As part of your responsibilities then as this intermediary between the brand groups and Long, Hames & Carr, do you discuss advertising content?
A: There have been instances when I - if you are asking me if I know what the content of some of the ads that we will be placing is, yes, I do, but not the development of that content, and I don't always know the content.
Q: Who develops advertising content?
A: The brand groups.
Q: Do they work in conjunction with a creative group at Long, Hames & Carr?
A: Each of our brands has a creative agency still which develops their creative. One of our brands, Winston, does use Long, Hames & Carr for the creative assignment, but that's completely separate from the media agency of record assignment.
Q: So in connection with the current Winston advertising, are you the intermediary between the brand group and Long, Hames & Carr regarding the advertising content?
A: No, I am not. I am the intermediary between the Winston brand and Long, Hames & Carr only as it relates to media.
Q: Who is it within the Winston group - is it Ned Leary that communicates with Long, Hames & Carr regarding the creative aspect, the advertising?
A: The brand group communicates with them. Ned Leary is the head of that group. There may be others that communicate with the Long, Hames & Carr account group on the content of advertising, but I don't know, that's not my area.
Q: In connection with the implementation of a media plan, is it part of your responsibility to forward to Long, Hames & Carr the actual advertising content directly to them?
A: No, that is not.
Q: How does that work?
A: If you are asking how - are you asking after something that's ordered how does the ad get to the magazine?
Q: I am asking, yes, how it gets to Long, Hames & Carr to get to the magazine?
A: My responsibility is on the media end, working with Long, Hames & Carr. They order the space.

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At the time the space is ordered an insertion order would go to a magazine. It would also go to the creative agency, which for Winston has the account group of Long, Hames & Carr. The creative agency attaches the material and sends it on then to the publication. So the media group doesn't ever really have the creative execution.
Q: Do you distinguish between something called a marketing objective and something called an advertising objective as the terms may be used at Reynolds?
A: I don't know how other people may have used it. That would be speculating. All I deal with are the media, the media objectives and strategies.
Q: And the marketing objectives as well?
A: The overall marketing frame work, yes.
Q: Have you heard the term advertising objectives used at Reynolds?
A: I probably have heard that used.
Q: Do you have an understanding of what that may be?
A: I don't know for sure. I would be speculating. I would assume that that would include the creative development objectives.
Q: And part of the implementation of the media

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plan is to reserve and buy advertising space, I would imagine, is that correct?
A: Part of - I'm sorry?
Q: Part of the implementation of the media plans is to reserve and buy advertising space?
A: That's what Long, Hames does, yes, reserve and buy advertising space.
Q: And that includes a decision in where to place certain advertisements, is that correct?
A: The decision where to place it is part of the planning process that would then be approved through me and the brand
Q: And do you participate in that decision as to where to place advertisement?
A: To the extent that I have approval of a media plan, yes.
Q: On what basis do you approve or disapprove of media plans?
A: Well, that's a very broad question.
Q: On what basis would you approve or disapprove of where to place a particular advertisement?
A: I think we need some context here in that all of our - Long, Hames & Carr would not plan or recommend anything that was inappropriate for our brands advertising, so I mean in the broadest terms obviously I

wouldn't approve anything that was inappropriate.
Q: And you wouldn't approve anything, of course, that would be in violation of the cigarette advertising code?
A: I would not approve anything, right
Q: But are there other bases upon which you would not give your approval to a particular plan?
A: Certainly, and it depends, for example, if the target audience is adult smokers 21 to 49 and the plan that's presented, the impression skewed to adult smokers 50 plus, I wouldn't approve that because it would not be consistent with our strategies
Q: So you keep the marketing strategies in mind when you are approving or disapproving of a media plan?
A: I keep the media strategies in mind.
Q: And do you keep the marketing objectives in mind as well?
A: Well, media strategies as I have stated earlier are an outgrowth of the overall marketing objective
Q: So up wouldn't approve of a media plan that was inconsistent with an overall marketing objective?
A: I don't believe I would, but I'm not the end person You have to also remember that after me the

plan is also approved by the brand group itself
Q: In rendering a decision of where to place an advertisement, do you rely on Long, Hames & Carr work, their work in developing tactical plan?
A: If you are asking does Long, Hames & Carr develop tactical plan?
Q: I'm asking whether or not you rely on that tactical plan developed by Long, Hames & Carr to make a decision as to where to place advertisement?
A: I don't think I understand what you are trying to say.
Q: Who makes the final decision as to where to place an advertisement?
A: Well, it's a plan that is approved first by me - first, LHC develops it. It's approved by me and the brand group. If you are asking if there are day-to-day tactical decisions that I myself might make, yes, there are, but the overall plan has been approved by the brand group and actually beyond them from marketing management.
Q: And making, say, a final decision on the more tactical end of things as to where to place a particular advertisement, is that done in collaboration with the business brand units and your group?
A: Long, Hames & Carr and RJR media will work

together on developing that list, that tactical plan and then present it to the brand group. Is that what you are asking?
Q: Well, I just want to know how it works. I'm just wondering if your group has a final say so in collaboration with the business brand units?
A: In collaboration with them. In conjunction with them, yes, I would be able to approve tactical plan change or something.
Q: Is it a function of your group to find media space?
A: What do you mean by find it?
Q: Determine where available media space - to determine where available media space is available?
A: A function of my group at RJR?
Q: Yes.
MR. BEACH: Right now?
MR. SOBOL: Yeah.
THE WITNESS: No.
BY MR. SOBOL:
Q: Okay.
A: I don't understand exactly what you mean by find it.
Q: Well, in Long, Hames & Carr's work in developing a media plan and tactical plan, does it

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contain a list of possible magazines or outdoor vendors or tell me what it contains?
A: Our media plans, the tactical plan would include a recommended list of magazines if we were using magazines. It would also include the scope of any kind of out of home buy.
Q: Did you say out of home buy?
A: Out of home recommendation, buy, b-u-y, I meant.
Q: And then with this tactical plan developed by Long, Hames & Carr, you and the business brand units would look over, say, a list of magazines and determine which were appropriate?
A: Generally because everything has been built from the media strategies down, the list is appropriate by the time it gets to -
Q: But you review it and make a final decision on it after it's developed by Long, Hames & Carr?
A: Yes.
Q: And the tactical plans would also contain the scope of out of home advertising?
A: That's correct.
Q: And that's sometimes referred to as OOH, out of home?
A: Out of home.

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Q: And can you describe for us what out of home advertising entails?
A: Well, basically out of home advertising is signage that's available for rent, for advertisers to rent space on. Signage is usually in a public place that is most often out of doors, but not always.
Q: What's an example of out of home advertising that would be indoors?
A: An example might be signs inside an airport terminal.
Q: And what about signs inside a sports stadium? Is that handled by your group?
A: We don't have any signs inside a sports stadium that I recall currently, if you are talking a current time frame.
Q: Do you know if the sports marketing enterprises group, do they place advertisement in sports arenas or did they used to? Is it a function of their group?
A: I don't know.
Q: Was it ever a function of the media group which you have been involved in to place out of home advertising in sports stadiums?
A: I do recall that in the '80s and early '90s perhaps, that we did have some outdoor advertising, we

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Reynolds, had some outdoor advertising in major league sports stadiums and that was policed by the in-house media department, however, I was not involved in that.
Q: Can you describe, please, what's contained in the tactical plan regarding the scope of out of home advertising?
A: What would be contained in the tactical plan is what geography the out of home advertising would comprise, what timing would it be if there were certain months, let's see, and the weight level of it.
Q: The weight level. Can you describe what weight level is?
A: Outdoor advertising is purchased on a gross rating points basis, GRPs, and how many GRPs will be purchased is what is included on the tactical plan.
Q: The more GRPs the greater the weight?
A: Yes.
Q: And how is a gross rating point determined?
A: The GRPs - it's kind of complicated. Gross rating points is a term used in advertising for every form of medium, but it's defined a little differently for each medium. So in the area of out of home, since that's what you are asking, you would actually take all of your outdoor advertising locations, determine their daily effective circulation, take it

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times 2.1 persons per car, which is a number provided by a third-party advertising industry organization called the Traffic Audit Bureau.
So you would add up all of the daily effective circulations for that unit, and divide it by - and that would all be measured as an 18 plus adult number, and then you divide it by the 18 plus adult population of the market. The reason it is done that way is because the market population is from like census data.
So the daily effective circulation times the 2.1 adults per car equals the total gross impressions. That number divided by the particular market's adult population, gives you a gross rating point per day and that is how out of home is purchased by any advertiser on that GRP level. It's kind of hard to explain.
Q: I think you did a good job. It sounds to me like you are referring to outdoor advertising that would be seen from an automobile, however?
A: That's correct, and that is because that's primarily what our Reynolds' out of home plans have been.
Q: And they, of course, engage in other out of home advertisings like transit advertising?

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A: Yes, but that would still be outdoors, so that could still be measurable.
Q: Would it be measurable by the same formula you just testified to?
A: Yes, the outdoor industry has tried to assign a circulation for every form of outdoor. That's not R.J Reynolds or Long, Hames & Carr. That's the outdoor industry itself
Q: So for every form of out of home advertising, this formula is applied to determine what the daily effective circulation and so on and so forth is?
A: Yes
Q: Let me rephrase that. The formula that you testified to which is daily effective circulation times 2.1 persons per car -
A: Adults per car.
Q: 2.1 adults per car?
A: Adults per car.
Q: Let me start again. The formula of daily effective circulation of 2.1 adults per car equals the total gross impression, and that's divided by the 18 plus population derived from census data?
A: That's correct.
Q: And that formula is called a gross rating

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point?
A: Yes
Q: Is there in the tactical plan by Long, Hames & Carr considerations of where to geographically skew a particular kind of advertisement?
A: Are you still talking about the out of home plan?
Q: Yes.
A: As I said in the tactical plan it would say in terms of the scope what geography will the out of home appear in. Most of our brands that would be national. If it is not national, it would say how many divisions and we measure everything by RJR sales divisions.
So it would say the number of divisions and the percent of U.S. population and that is U.S. households actually that is covered.
Q: So that tactical plan developed by Long, Hames & Carr in terms of the out of home advertising would give GRPs for the various RJR sales divisions?
A: No, for the plan in total the GRPs will be expressed as a range of wherever the advertising is going to appear, whether it is in 50 percent of the U.S. or in national will be shown, and in those areas where we will have outdoor advertising we'll deliver this

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range of GRPs.
MR. SOBOL: We need to change the tape.
(Off-the-record, lunch break was taken from 12.05 p.m to 1.12 p.m.)
BY MR. SOBOL:
Q: Ms. Ittermann, do you understand that despite the fact that we have taken a break, you are still under oath?
A: Yes, I understand.
Q: This afternoon I want to focus on what you have been doing as the senior manager of media from 199? to the present.
A: Okay.
Q: In your position as senior manager of media, you oversee the development of media plans, is that correct?
A: That's correct.
Q: And you oversee the implementation of those media plans?
A: That's correct.
Q: And media plans are an outgrowth of marketing plans and objectives developed by the business brand units?
A: Yes, the media strategies are developed to achieve the overall marketing objectives.

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Q: And your role as the senior manager of media is in part at least to be an intermediary between the business brand units and Long, Hames & Carr, is that correct?
A: Long, Hames & Carr media department, yes.
Q: And Long, Hames & Carr, they develop and implement the media plans as well, is that right?
A: They do and I supervise them in that.
Q: And business brand units, they develop the marketing plans and objectives, correct?
A: Yes, that's correct.
Q: And they, being the business brand units, they work with creative agencies to develop the advertising content of advertising?
A: That's correct.
Q: Within the media group, is it fair to say that you are primarily responsible for two forms of media, print media and outdoor advertising or out of home advertising?
A: That's correct.
Q: And what does print media entail?
A: Print media includes primarily as we use it currently, print media, primarily magazines. It could also include newspapers or Sunday magazines.
Q: Within your department you regard

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magazines, newspapers and Sunday magazines as three distinct forms of print media?
A: Yes
Q: Are there any other forms of print media which your group is responsible for?
A: Well, within the broad term magazines, there are a number of different types of publications. For example, some of them are weekly magazines, some of them are monthly, some are national, some are local, some are glossy, four color and some are printed on newsprint, but they are still considered magazines.
Q: Are there any others that come to mind, any other forms of magazines which the media group uses, or I should say works with, I guess?
A: Well, as part of our media plans we - you are talking currently?
Q: Yes.
A: Currently our plans, we use some other frequencies of magazines. They are not all weekly or monthly. Some could be bimonthly. Some could be quarterly. Some could be annual. There is just a whole range of frequencies of publication.
Q: And the newspapers which the media group works with, is there sub-classifications of newspapers?
A: We consider them in terms of media plan,

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development and implementation the same, but there are local daily newspapers and there are national newspapers, such as U.S.A. Today.
Q: What about the Sunday magazines, are there sub-classifications that the media group works with with regard to Sunday magazines?
A: Sunday magazines, there are different titles within that category, but they are all - they pretty much have the same characteristics.
Q: Because they come out every Sunday?
A: And they are delivered within the local newspaper.
Q: Does RJR and specifically the media group, have any process by which it reviews a magazine to determine whether or not it's an appropriate magazine to place advertisements in?
A: Yes, we have a very specific evaluation that's done on each publication that - do you want me to go into what the evaluation entails?
Q: Why don't you tell me what the specific evaluation entails?
MR. BEACH: Just so the record is clear, I assume this in the context of 1993 to the present as you stated at the outset of this afternoon's session?
MR. SOBOL: Absolutely.

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THE WITNESS: Well, the evaluation is prepared by Long, Hames & Carr and submitted to Reynolds media. It covers a variety of aspects about the publication, it's publishing frequency, who is the publisher and even as far as their financial background, the frequency of the publication, how often it's published, the cost for a standard advertising page, the circulation, where and how the publication is distributed and the demographics of the readers of that publication and the source of that readership data, what specifically is on the cover date so that we - and that gets into if we end up using the publication and approving and using it.
What actually appears on the cover is the cover date, helps us determine the warning statement, the correct warning statement rotation, because there is different rules for different publishing frequencies, and the editorial focus, the other advertisers that currently use the publication.
Those are all of the elements - there may be one or two others, but that's what I recall is the elements of the evaluation.
The evaluation is submitted with sample copies of the publication and we look through the publication. We read the editorial. We look at the

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graphics, the advertisers, and then with the evaluation and having gone through the publication, we determine whether or not it's an appropriate medium for our brands.
BY MR. SOBOL:
Q: Now, in addition to determining whether or not it would be an appropriate medium for your brands, do you also go through this review process to determine whether or not it would be an effective advertising vehicle for your brands?
MR. BEACH: Objection to the form of the question on the grounds that it's ambiguous. If you understand what he means by effective, answer the question.
THE WITNESS: I'm not aware of any kind of research that exists that shows a particular publication is or is not effective for advertisers, so, no. In answer to your question, no, we would not consider that.
BY MR. SOBOL:
Q: When you use the word to determine whether it's appropriate and you use the word appropriate, what do you mean by that?
A: The reason we go through all of those elements that I listed in the evaluation are to see that it reaches predominantly an adult audience and that it

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is a financially sound place for our advertising to appear or business-wise it's a sound vehicle.
Q: Anything else?
A: Well, we look at all of those elements that I listed in the evaluation, but I don't know what you are getting to.
Q: When you use the word appropriate, other than determining whether or not it's a predominantly an adult audience and the magazine is a financially sound place for advertisements to appear, are there any other aspects which you take into consideration in determining whether or not it's an appropriate magazine?
A: Well, all of the elements listed in the evaluation that I gave you are considered. I mean, if it's incredibly expensive relative to other media vehicles, it may not be approved. It wouldn't be appropriate. If the editorial is overly tasteless, has no redeeming value that we can see for its readers, then that wouldn't be an appropriate place we would want our brands to advertise.
Q: And does the media group participate in this determination of whether or not magazines are appropriate?
A: Yes, the media group is - I am the one who actually goes through the evaluations, and in some cases

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I will approve it outright. There would be no question in my mind that it was an adult publication and an appropriate vehicle.
If there is incomplete data or if there is any question in my mind that it could be mis-perceived, misconstrued, I also have that - take that evaluation, sample publications, through our law department and our public relations department and we make a consensus judgment.
Q: Since 1993, when you obtained your current position, have there been any magazines which you have been able to approve outright?
A: Yes, after reviewing the evaluation and all.
Q: Of course, after going through all those parts of the evaluation which you discussed?
A: Yes.
Q: And can you tell me which magazines you recall that you approved outright since 1993?
A: I can't tell you all of them. I can give you an example of a magazine that I have approved outright, In Style magazine.
Q: In Style, two words?
A: In Style, yes
Q: And do you recall any others since 1993

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that you approved outright?
A: Gee, I'm sorry, since 1993, I know that there have been several. I'm sorry, I can't remember specifically.
Q: Is In Style a national magazine?
A: Yes, it is.
Q: And would it be unusual to approve a national magazine outright - is a national magazine more likely to get reviewed by the public relations and law department as opposed to, say, a local magazine?
A: It doesn't matter whether it's national or local. We treat them all the same in terms of evaluating for approval.
Q: Do you recall the names of any other magazines that RJR has placed advertisements in for the first time since 1993?
A: That's a very difficult question. Let me put it in the context that we use almost 300 publications every year, so trying to remember which ones perhaps we didn't use in 1992, but we did in 1994 is difficult.
Q: What about Spin magazine? Are you familiar with Spin magazine?
A: Yes, I am.
Q: Is that one that RJR has placed

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advertisements in for the first time since 1993?
A: I don't recall the first year that we would have advertised in Spin. I don't recall offhand the year even it was launched or even if it existed in 1993.
Q: Do you recall whether or not you participated in the review process for Spin magazine?
A: Yes, I believe I did. I can't recall specifically if that occurred prior to '93 or after or post-'93. If it was post-'93, I would be sure that I participated in it.
Q: Do you recall whether or not it's one that you approved outright or one that you sent for evaluation?
A: No, because I cannot remember if I'm the one who approved that.
Q: Your authority to approve a magazine outright, did that start with your new position that you got in 1993?
A: Yes.
Q: In connection with Long, Hames & Carr preparing the specific evaluations for magazines, do they conduct their own independent research or do they rely on syndicated industry research or both?
A: They do not conduct their own research. We use the information on the readership of publications

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that is available, free syndicated research, and if not, if the publication is not included in syndicated research, the publication provides us the research and the source of the research for their readers.

Q: Does the publication also at times provide you with perhaps a demographic breakdown of its subscribers, for instance?

A: In the course of meeting with media suppliers they may have subscriber research in their media kits, but that is not - that is something that we - that is not a particular thing that we look at in making a decision on whether or not to approve a magazine.

Q: At least not in and of itself?

A: That's correct

Q: You may review this subscribership as part of your analysis or no?

A: No. Generally we want to - generally we use the full reader research that they have available.

Q: Do you know if there has been times when you made a decision, a collective view at RJR to made a decision to place an advertisement in a magazine publication where the only readership information that was available was provided by the publisher and conducted in-house at the publisher?

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A: I don't recall, but there may have been a few cases where the publisher provided the information, but in that case he would have been attesting to that information and putting it in writing to our agency, Long, Hames & Carr.

Q: But there is no general policy then again against - strike that.

There is no general policy then in insisting upon third party independent research to determine this kind of information involved in the evaluation of the magazine?

MR. BEACH: Excuse me, let me object to the form of the question on the grounds I think we are going to inject ambiguity into the record. What do you mean by this information? If you could specify that in your question.

BY MR. SOBOL:

Q: Sure. The information provided by the specific evaluations or whatever information that the publisher and/or the syndicated research provides, my question is whether or not there is a policy at RJR to insist upon independent third party research apart from that provided by the publisher in order to make a decision in determining whether the magazine is an appropriate medium for your brands?

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A: We would always look at third party research first, but there are some cases where that does not exist, and in that case we get the best information that is available from the publications and we would make a collective judgment on the full breadth of all the other elements in the evaluation.

Q: But there are times when you rely solely on information provided by the publisher, is that right?

MR. BEACH: Object to the form of the question on the grounds that it misstates the witness' testimony.

THE WITNESS: If there is no third party research available we would rely on the information received from the publisher, but let me give you an example.

A new publication, and I believe I used the example before, for a magazine that I had approved, In Style, when that magazine was initially launched it would have had no reader information because it had no readers yet, so the kinds of information that we would require from the publisher and base our decisions on would be primarily the prototype, the editorial and graphics, etc. of the magazine as well as how they were planning to distribute the magazine, and if they were soliciting subscribers, what kind of lists were they

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using to solicit subscribers.

So there is a wealth of information that we may ask the publisher, but we use it all in combination with all the other elements of the evaluation to make a decision.

BY MR. SOBOL:

Q: The syndicated research which Long, Hames & Carr employees in developing these evaluations, what are the sources of that syndicated research?

A: You are talking currently still, it's MRI, MRI's annual study of media and markets.

Q: And MRI is the media -

A: Media Market Research, Inc.

Q: And since 1993, has Long, Hames & Carr used any other syndicated research?

A: Prior to - I think it was last year when they began using MRI, prior to that they used Simmons, the Simmons annual study of media and markets.

Q: And that's Simmons' Market Research Bureau?

A: Yes.

Q: Just so I understand, Long, Hames & Carr only uses MRI currently, MRI data currently?

A: If you are talking about in formulating plans for R.J. Reynolds, yes.

Q: And does Long, Hames & Carr provide you

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with a copy of MRI's annual report?
A: No.
Q: Is there a policy against MRI providing you or not providing you with their annual report that you are aware?
MR. BEACH: Excuse me, object to the form of the question I don't know whose policy you are referring to
BY MR. SOBOL:
Q: My question is whether or not RJR has a policy against being supplied marketing reports, syndicated marketing research reports?
A: Syndicated marketing research reports for the annual studies of media and markets by either Simmons or MRI are available for purchase by any advertiser or agency or publication. Since our independent contractor, Long, Hames & Carr, already purchases that study, there is no need for Reynolds to also purchase it.
Q: Is there a policy against them purchasing it?
A: No, not that I'm aware of.
Q: Where is Long, Hames & Carr? Where are they located?
A: They are located in Winston-Salem, North

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Carolina.
Q: Is it downtown Winston-Salem?
A: It wouldn't be considered downtown Winston-Salem.
Q: What's their address?
A: 140 Charlois Boulevard.
Q: And in connection with your job responsibilities, do you have an occasion to visit their offices from time to time?
A: From time to time, yes.
Q: And from time to time, have you had an occasion to review MRI's annual marketing report while you were over there?
A: No, I have not.
Q: And what about when they were using Simmons, did you have an occasion to review the Simmons' annual report while you were visiting Long, Hames & Carr?
A: No, not that I recall ever.
Q: Do you have an understanding of whether MRI's annual report contains demographic data on magazine readers under the age of 21?
A: Yes, I knew that both Simmons' and MRI's annual study of media and markets are conducted among 18 plus adults.

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Q: Are you familiar with any - are you familiar with STARS? Have you ever heard of STARS?
A: I have heard of it
Q: What is STARS?
A: It is a - it's one of the studies that is done by Simmons that measures under 18 readers
Q: Do you know what STARS stands for?
A: I would be speculating if I said
Q: Have you ever heard of the Simmons Teenage Research Study?
A: I may have. I may have heard of it, if that's what STARS was also called or something I have no reason to know that because we don't ever look at that kind of data.
Q: You have heard of the 12 Plus Report?
A: For MRI?
Q: Yes. Have you?
A: Yes.
Q: What's the 12 Plus Report?
A: The 12 Plus Report would be taking their annual 18 plus study and combining it with some teenage research that they may have done.
Q: And Ed Blackmer, he is your supervisor now at Reynolds?
A: Yes.

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Q: Did you have a conversation with Ed Blackmer regarding the 12 Plus Report?
A: I may have, but this gets in the area of possible privilege because it was at an attorney's request in response to some regulatory issues.
Q: Why don't you tell me what the nature of your conversation was between you and Mr. Blackmer regarding the 12 Plus Report?
MR. BEACH: Excuse me, Ms. Ittermann, to the extent that that conversation was conducted at the request of or for attorneys or there were attorneys present, I would instruct you not to answer that question.
MR. SOBOL: Let me ask a couple of foundation questions then.
During this conversation you had with Mr. Blackmer regarding the 12 Plus Report, were there any attorneys present?
THE WITNESS: There may have been, I don't specifically recall.
BY MR. SOBOL:
Q: In preparation for your deposition here today, did you read Ed Blackmer's deposition transcript?
A: No, I did not.
Q: Did you discuss with him his testimony?

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A: No, sir
Q: And did you discuss with him his testimony regarding his conversation with you about the 12 Plus Report?
A: No, sir I don't recall specifically that I had a conversation with Mr. Blackmer about that topic. If I did it would have been in the context of the legal request
Q: Do you know what the nature of the litigation was pending at that time?
MR. BEACH: Let me instruct you not to - if you have some independent knowledge of that, that's fine. If the knowledge was derived from lawyers, then I instruct you not to answer that question.
BY MR. SOBOL:
Q: Do you know the name of the case that was pending?
A: I don't know what I'm supposed to do here.
MR. BEACH: If you learned the information from lawyers, I would just assume you not -
THE WITNESS: Yes, I learned the information from lawyers.
MR. BEACH: I want to instruct you not to answer that question.
MR. SOBOL: You are instructing her not to

answer whether or not she knew the name of the litigation? That's confidential information?
MR. BEACH: I'm instructing her not to answer information that she derived from lawyers or answer questions about work that she did for lawyers.
MR. SOBOL: So as far as you are concerned then -
THE WITNESS: I was wondering if I could take a break. Could I ask you a question?
MR. BEACH: Sure.
MR. SOBOL: Yes, you can take a break because your counsel has instructed you not to answer whether you knew the name of the case and I would like that instruction certified and then we can take a break.
(Recess was taken from 1:43 to 1:47 p.m.)
BY MR. SOBOL:
Q: Prior to Long, Hames & Carr relying solely on the MRI annual marketing data, it relied on the Simmons syndicated research?
A: Yes, the Simmons annual study of media and markets.
Q: Prior to use of MRI, did Long, Hames & Carr rely exclusively on the Simmons annual study of media and markets?
A: In conjunction with their work for

Reynolds, yes, they did.
Q: What's the name of the MRI report that Long, Hames & Carr uses in conjunction with their work for Reynolds?
A: I am not absolutely certain of the specific name, but it's the annual report of media and markets that's conducted among 18 plus population and it combines the - I think MRI has a spring and a fall wave, and it combines them into one annual study
Q: In connection with performing specific evaluations of magazines, does Long, Hames & Carr communicate to Reynolds the MRI information pertaining to 18 plus readers?
A: The MRI information - I'm sorry, I may be misunderstanding your question. Are you talking now about the media plans or the evaluations of magazines?
Q: Yes, my question was about the evaluations of magazines, to determine whether or not they are appropriate. Let me ask you, in connection with providing specific evaluations to determine whether or not magazines are appropriate for advertisement of RJR brands, does Long, Hames & Carr communicate to you as senior manager of media the information contained in the MRI annual report of media and markets pertaining to 18 year olds and older?

A: In doing the evaluation, they may use MRI as the source of the data when they show what the demographics of the publication are, and it would be if they used MRI data or our targets in what we look for now and what we would be approving the publication for, are 21 plus, and as part of that they would show the 21 plus adult smokers.
Q: Do any of these evaluations provided by Long, Hames & Carr contain demographic breakdowns of persons 18 to 21?
A: Let me put it in context. We are not talking anymore about MRI data, correct?
Q: I'm talking about the specific evaluations that Long, Hames & Carr does for RJR which contain demographic data, do they not?
A: Yes, they do.
Q: That demographic data, does that contain information pertaining to persons of the ages 18 to 21?
A: If the source of the data was MRI, it would not. If the source was another third party research or whatever research is available on that publication, they may show the percent of readers in various age categories. Traditionally in the advertising and publishing and research field, there are - the standard age breaks are 18 to 24, 25 to 34, 35 to 49 and 50 plus.

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So the information may be provided that way, but we also ask for a median age of the readers

Q: Now, if the source is MRI data, it only contains information pertaining to 21 year olds and older, is that correct?

A: MRI the study contains 18 plus data, but because it's accessible through the MRI study as purchased by Long, Hames & Carr is accessed through a computer, so they can only look at the 21 plus and provide that information to us

Q: So Long, Hames & Carr expressly does not provide Reynolds with information pertaining to 18 to 21 year olds as it's derived from the MRI annual report?

A: That's correct

Q: And is that a result of a specific policy that RJR has in not obtaining data regarding 18 to 21 year olds?

A: Yes, it is. All our marketing plans as of 1992 are all among smokers who are 21 plus.

Q: Therefore, in conducting your specific evaluations of magazines, you currently because - strike that.

In conducting your specific evaluations for magazines, the information which Long, Hames & Carr provides to you does not contain information pertaining

to 18 to 21 year olds at least as that information is derived from an MRI report?

A: That's correct.

Q: What efforts, if any, does Reynolds currently engage in to determine the percentage of readership between the ages of 18 and 21 of the magazines in which it advertises?

A: We do not do anything to try to determine that percentage because we are interested only in finding what the percent of readers who are 21 plus is because that is who our products are marketed to.

Q: Does Reynolds have any information on the percentage of readership that are of the ages of 18 to 21 in the magazines in which it advertises?

A: We don't look at that information.

Q: So there is no expressed effort to look at that information in order to avoid advertising in magazines?

A: We look at the readers of the publication who are 21 plus. Like I said previously, in some cases depending on the research that is used to describe a publication's readership, that information may be there, the readers 18 to 24, for example, but that is not - that's just describing the readership. The readers that we are interested in and why we would approve it, a

publication, is if we were convinced that the readers were primarily 21 plus.

Q: And by primarily, what do you mean?

A: Well, if there is a median age our advertising code says that we will not advertise in any publication which reaches those primarily under the age of 21. So we at Reynolds have kind of built in a buffer and consider we would not approve a publication if it had a median age of less than 23.

Q: My question doesn't relate to who you target in terms of advertising or whatever sort of media plan you have or whether or not you are looking for magazines with younger readerships.

My question is, whether or not you look at the readership of particular magazines to determine the amount of teenagers reading that magazine? Do you look at that?

A: We look at the percent of the readership who are adults.

Q: Is that a no?

A: I have to -

MR. BEACH: I think she is doing the best she can to answer your question. If you are not satisfied with her answer, why don't you ask her another question, Mike.

BY MR. SOBOL:

Q: I want to know if RJR looks at readership data of persons between the ages of 12 and 21 to determine how many of those readers are in that age group?

A: No, we do not.

Q: You don't look at that?

A: We do not.

Q: And by primarily being the age of 23 or older, do you mean more than 50 percent?

A: The median age of 23, yes, that would mean half of the readers would be above that and half below.

Q: So median means more than 50 percent under that definition?

A: I know if you line them all up, the one in the middle, so that each side would be equal, would be the median.

Q: So that half the people, at least half the people are over the age of 23?

A: That's correct.

Q: So it's conceivable then that if, say, a median age of 24 for a particular readership of a magazine, that half those people would be above the age of 24, is that correct?

A: Yes, that's correct.

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Q: And then half the people would be below the age of 24, is that correct?
A: That's correct
Q: As to those people who fall underneath the median of 23 years of age, RJR doesn't engage in any specific efforts to determine the composition of that group of people?
A: That's correct If we know that the median age is at least 23, we know that it meets our requirements, which is, it does not reach primarily an audience under 21.
Q: Well if the specific evaluations, say, for Spin magazine determined that the median age was 23.6, that would mean that half the readership was above the age of 23.6 and half the readership would be below the readership of 23.6, is that correct?
MR. BEACH: Let me just object. The question assumes facts not in evidence. If it's stated as a hypothetical question, you can go ahead and answer it.
MR. SOBOL: It's a hypothetical.
THE WITNESS: If the median age was 23.6, we would assume that half were above that, half were below. So it reached predominantly an adult audience.
BY MR. SOBOL:

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Q: In determining - strike that. As a hypothetical, if RJR determines that a magazine has a median readership of 25 years of age, does it engage in a further effort to determine the percentage of readership between the ages of 21 and 23?
A: In the context of the evaluation it will show however the research has been conducted and it may show, like I said, the standard age breaks used in advertising. So we would be able to see if there was a percentage 18 to 24, but beyond that - well, if the magazine was in MRI we would certainly be able to determine the 21 to 23, but for other types of research we would not have that information available.
Q: For those magazines that are in the MRI, does RJR make a specific effort to determine the age, the average - I'm on California time, so I'm a little jet-lagged today.
A: If you are asking if we make a specific effort to look in particular to only the 21 to 23 year old percentage of readership, no, we don't. Because once - if we know the median age is 23, we know that the demographically or age-wise that publication does not reach an audience primarily under 21, and so it is appropriate.
In the context of then including that

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magazine in the plan, we look at 21 plus smokers and those readers in developing the plan.
Q: The specific evaluations which Long, Hames & Carr conducts for Reynolds is done, of course, every time a new magazine is chosen to advertise in, is that correct?
A: That's correct.
Q: Is there any process or policy in place to see that these evaluations are updated from time to time?
A: All of the publications that we use are asked to provide us the results of whenever they do a new research study. Also, the ones that are measured by syndicated research, MRI, are looked at each year.
Q: Is that done by Long, Hames & Carr as well?
A: Yes.
Q: And does Long, Hames & Carr produce the full range of evaluation that it does for any magazine when it's updating existing publications?
A: Generally there is no need to because we already know the cost structure, the financial background. So in the case of a publication in which we have been using, they would only update the pertinent data, if necessary.

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Q: And that would be the demographic data?
A: Yes.
Q: Would they also update the editorial focus, the evaluation of that?
A: There is - a publication, even if we have used it in the past, would get the full evaluation, if there was some basic change of the magazine, either the change in its editorial focus or in its basic business fundamentals.
Q: Like a new publisher, something?
A: It would be more than a new publisher. It would be they would dramatically change the way they were doing business. If they used to be 90 percent subscription and now they were going to be 75 percent newsstand, something like that, a major change, in that case a complete new evaluation would be done.
Q: Can you tell me in greater detail what the composition of the demographic data is that Long, Hames & Carr prepares in connection with performing these specific evaluations of the magazines in which RJR analyzes to determine whether it's appropriate medium for your brands?
A: I think you are asking - that was a long question. I believe you are asking what demographics in addition to the age that they would included in an

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evaluation, that Long, Hames & Carr would include in an evaluation?
Q: Correct
A: They would include smoking incidence if the research says what that is or has measured that.
Q: By that you mean the percentage of readers who smoke?
A: Yes, and they may include a median household income or median education That's generally it.
Q: What about ethnicity?
A: I don't recall that that's been in any of the evaluations.
Q: What about geographic data, is that included?
A: Yes, that's part of the evaluation, what the scope of the publication is, whether it's a national publication or if it is a regional publication, what region of the country is it distributed in.
Q: Are you given information as to the relative percentage of sales in particular regions of a given magazine, maybe one is more popular on the west coast, one is more popular on the east coast, that kind of information?
A: Well, the evaluation is only on one

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publication, so if it was a publication which was concentrated in the Midwest, the evaluation would say that, the circulation is concentrated in the Midwest.
Q: What about People Magazine, does that sell better in any particular part of the country that you are aware?
A: I wouldn't off the top of my head be able to tell you.
Q: Would Long, Hames & Carr prepare a breakdown of where the sales of People Magazine was strong and week throughout the country?
A: If I requested that from them they would be able to do it I could get that information myself from another outside advertising industry, a service called the Audit Bureau of Circulation.
Q: Does Long, Hames & Carr access the Audit Bureau of Circulation data in preparing of evaluations for which magazines to place ads?
A: The Audit Bureau of Circulations reports on each publication are important media planning resources. They help give the answers to not only where publications are distributed, but some of - you know I mentioned earlier the financial background standing of the publisher, that we want to be sure that we are buying - that what we are purchasing for our brands

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advertising is a solid investment, and the Audit Bureau of Circulation lists the guaranteed circulation of every issue of the last six months and will show when a publication has declining circulation or they are giving away subscriptions, all of the things that are indicators on how solid their business is.
Q: Does the Audit Bureau of Circulation have any demographic data on those reports?
A: No.
Q: Other than its regional sales breakdown or does it have are -
A: It has geographical distribution of a publication circulation, and then it's all circulation driven. It's Audit Bureau of Circulation.
Q: So other than where it goes, it doesn't provide any information?
A: It provides within a magazine circulation what part of it is paid circulation, do people pay for it to get it, and what part is non-paid, things like that.
Q: You testified this morning that RJR has particular sales divisions within marketing, is that right?
A: Yes, our sales force is divided into sales divisions, that's correct.

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Q: And what are those divisions based on?
A: I don't know, that's outside of my area. I don't know how they are determined.
Q: Is it a regional division?
A: We have four sales areas and then we have sales - I forget the number. We have a number of sales regions, and within each sales region we have sales divisions.
Q: The four sales areas, are they broken down geographically?
A: Yes, that's like western, southern or northeast. I forget the name exactly of the other one. I think it's Midwest or -
Q: As part of the tactical plans that are developed and eventually passed on by your media group does that include decisions of where to place advertisements within those particular areas, regions or divisions?
A: Within the tactical place - well, in doing the whole plan we would have developed a strategy possibly that if it wasn't going to be national media plan, that these were the important regions or divisions. That should be covered by our media plan. That's determined really by the brand marketing group.
Q: So how does it work when you have a

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national media plan as it pertains to a magazine and you are placing the advertisement in a magazine that's not a national magazine? How are those decisions made as to which magazines to put it in?

A: Well, if you are talking about in terms of the media strategies, there is a media strategy to use national magazines, and there is a second media strategy that we'll also use local magazines in selected areas. That's where it would spring from, from the strategies, and there are some cases where national magazines are the only thing that we'll use.

Q: And then so within the media strategies there is a national media strategy and at times a local media strategy?

A: It would be a secondary strategy that encompassed selected geography as emphasis areas, perhaps.

Q: In your current capacity you oversee the execution or implementation of the media plans for all brands?

A: That's correct

Q: And that, of course, includes print media and magazines which includes magazines, right?

A: Yes.

Q: And are you, therefore, generally aware of

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what magazines RJR is currently advertising in?

A: Generally I am aware of that, yes. I can't remember them all specifically for across all the brands, but, yes

Q: And the decisions to advertise in those magazines are informed in part by the evaluations which Long, Haines & Carr performs for you?

MR. BEACH: Object to the form of the question, asked and answered. You can answer it.

THE WITNESS: The decisions on whether or not - the first decision on whether or not a magazine should be included in a plan is whether or not it has been approved for use by our brands, and the approval process is the evaluation.

BY MR. SOBOL:

Q: Does RJR currently advertise any of its brands in Entertainment Weekly?

A: Yes, it does.

Q: Which brands?

A: I believe that we advertise Camel, Winston. I'm not certain if we advertise Doral. We may also advertise Doral.

Q: What about People Magazine?

A: People currently is being used for advertising by Winston and Doral.

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Q: What about Rollingstone?

A: Rollingstone currently would be used for advertising by Winston and Camel.

Q: And Spin?

A: I believe it's also Winston and Camel

Q: What about Sport Magazine?

A: I don't recall specifically. I believe it is being used by Winston. I am not certain if it is being currently used by Camel. If may be.

Q: And Sports Illustrated?

A: As I recall, it's being used currently for advertising by for Winston, for Camel and for Doral.

Q: And TV Guide?

A: TV Guide may be used by Winston and it may be currently used by Doral. I'm not certain.

Q: Is RJR currently marketing Salem cigarettes?

MR. BEACH: Object to the form of the question, lack of foundation. You can answer.

BY MR. SOBOL:

Q: Let me ask you a foundation question. Does RJR sell Salem cigarettes?

A: Yes.

Q: And do they advertise those cigarettes?

A: Yes.

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Q: Do you know what magazines, if any, they are advertising in right now?

A: Well, I need to put some context in this, that Salem, if you are talking currently, is in test market only, and so they are not in national magazines such as the ones you just mentioned, unless they possibly are in a local edition of a national magazine.

Q: Where are they being test marketed?

A: They are being test marketed in New York.

Q: Has there been some - strike that.

MR. BEACH: We have been going about an hour and ten minutes since our last break aside from the short break we had.

THE WITNESS: I would like a break.

MR. BEACH: Fine, can we take a break?

MR. SOBOL: Yes.

(Recess was taken from 2:21 p.m. to 2:36 p.m.)

BY MR. SOBOL:

Q: Ms. Ittermann, would it assist you in carrying out RJR's policy not to target non-smokers under the age of 21 to review statistics regarding magazine readership of persons under the age of 21?

MR. BEACH: Let me object to the form of the question on the grounds it misstates the witness' testimony.

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MR. SOBOL: Go ahead.
THE WITNESS: All I can tell you is that our media plans target adult smokers 21 plus, so that is the information that we look at.
BY MR. SOBOL:
Q: And my question is whether or not it would assist you in avoiding targeting or influencing youths under the age of 21 to have statistics about the readership of magazines for persons who are under the age of 21?
MR. BEACH: Object to the form of the question on the grounds it's compound. You can go ahead and answer.
THE WITNESS: Okay. Because the magazines that we use that are appropriate for adult smokers 21 plus are determined to be appropriate to that audience, so there is no reason to look at information at readers that are not 21 plus, if I'm understanding what you are asking me.
BY MR. SOBOL:
Q: Do you have an understanding of whether or not RJR has a policy against youth smoking?
A: I'm aware that we believe that smoking - smoking is for adults and we are very strongly behind the laws which limit cigarette purchases to those who

are 18 and older.
Q: Would it have assisted you in your media department in determining that your advertising was not reaching persons 18 years and younger to have requested or reviewed statistics regarding the percentage of readerships of magazines who are under the age of 18?
MR. BEACH: Could you read the question back, please.
(The record was read.)
MR. BEACH: Object to the form of the question to the extent it purports to mischaracterize the witness' testimony. I also think it's confusing. If you can answer it, go ahead.
THE WITNESS: I think it's a confusing question, too.
BY MR. SOBOL:
Q: What's confusing you about it?
A: Well, first of all, our company has a policy that we do not look at information about people under the age of 21. Our products are marketed to 21 plus adult smokers, so we don't look at or track information for anyone who is not a smoker and an adult. So you are, I believe, in that question asking me to speculate on whether or not it would have been helpful, but we simply have a policy we do not look

at that.
Q: I understand you have a policy you don't look at it, and my question is about that policy that you don't look at, as to whether or not it would help you in avoiding influencing those people who you do not want to target to have statistics regarding percentage of readerships who are in that category of people you don't want to target?
MR. BEACH: Object to the form of the question on the grounds it's argumentative. You can answer it if you understand it.
THE WITNESS: I think you are asking me to speculate on whether or not it would be helpful and since we don't do it, I have no answer. We do not do that.
BY MR. SOBOL:
Q: You don't review that information and you have no opinion as to whether or not it would be helpful in order to avoid influencing minors?
MR. BEACH: Object to the form of the question on the grounds it's argumentative, misstates her prior testimony and in some respect it's been asked and answered now three times. You can answer the question if you have it in your mind or if the court reporter can read it back.

THE WITNESS: I think I need it read back.
(The record was read.)
MR. BEACH: I reiterate my objections for the record.
THE WITNESS: I repeat, I think I said this previously, that I can't answer that question because you are asking me to speculate on whether or not it would be helpful. We do not do it, so I can't answer that question.
BY MR. SOBOL:
Q: So you don't know whether it would be helpful or not to avoid influencing minors to have information regarding the percentage of minors who read the magazines in which you place your ads?
MR. BEACH: Same objection before as to the prior question.
THE WITNESS: Am I suppose to answer?
MR. BEACH: You can answer. I repeated my objections that it's asked and answered, argumentative and also compound and misstates your testimony.
BY MR. SOBOL:
Q: I just want to make the record clear, Ms. Ittermann. You are not saying that it wouldn't be helpful? You are saying you don't know whether or not it would be helpful in influencing minors, isn't that

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correct?
A: Well, I am saying that I don't know because we have not looked at it in terms of doing our media plans
Q: Safe to say, though, that RJR does not review information regarding minor readership of the magazines in which it places its ads in order to avoid influencing those minors?
A: Reynolds absolutely does not look at readership of however you stated it, underage readers, because our plans are based on trying to reach adult smokers 21 plus.
Q: So having information among - about the readership under 21 would not assist you in determining -
A: The information that we have is information that will help us to determine that the magazines which we approve do not reach primarily an audience under 21.
Q: Part of your responsibilities and overseeing the implementation of the media plan is to review the budget from time to time?
A: Yes, that's correct, the media budget, that's correct.
Q: And what does the media budget entail? In other words, what does it cover?

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A: The media budget is the cost of the tactical plan, approved tactical plan elements that have been purchased. It covers the cost of the media space.
Q: What is the annual budget currently for Camel, the Camel brands of cigarettes?
A: Actually, I think that's getting into some competitive -
MR. BEACH: Let me do this then. You can go ahead and answer these questions, Ms. Ittermann, but we'll invoke the provisions of the Massachusetts and California protective orders that pertain to treatment of highly confidential information.
BY MR. SOBOL:
Q: You are certainly welcome to avail yourself of those procedures.
MR. BEACH: That's exactly what I am trying to do here, Mr. Sobol, for the purpose of this deposition, and so the provisions in those orders that govern how the transcript of this deposition will be treated should apply.
You can go ahead and answer the question.
BY MR. SOBOL:
Q: Let me back up and ask you some foundation questions.
In connection with preparing for your deposition today, did you review any of the deposition notices that have been issued in this case?
A: Yes, I did.
Q: And did you review those aspects of the deposition notice that requested information regarding annual expenditures of certain advertising?
A: In regard to media or print or form of advertising?
Q: Yes.
A: Yes.
Q: And do you know what the annual expenditures are within Massachusetts for the media as it relates to print advertising or print media?
A: There is a number of problems with the way that question is stated. The basic problem is that we do not track our advertising expenditures on a state by state basis. As I explained to you previously, our plans are done on the basis of RJR divisions, regions and sales areas.
Q: Which sales area is Massachusetts located?
MR. BEACH: If you know.
THE WITNESS: I believe that that is in the northeast, yes, northeast.
BY MR. SOBOL:
Q: And is Massachusetts within a specific region?
A: No, it is not. We have a region that's called the Boston region, but that region also includes Rhode Island, and there are parts of Massachusetts such as Springfield, Massachusetts that are in the Buffalo, New York region. There may be some other little anomalies like that, but that's an example of how our sales divisions and regions are not on state lines.
Q: And do you know whether or not any of the sales divisions encompass Massachusetts in whole or in part?
A: There may be some divisions that are wholly in the State of Massachusetts.
Q: Do you know what they are?
A: I don't.
Q: Do any of the divisions cross state lines?
A: They may. There may be some that do. I don't recall offhand.
Q: Do you know if there is any divisions in Massachusetts that cross state lines?
A: I don't know, I'm sorry.
Q: Do you know what the annual cost - sorry, the annual budget was for the Boston region currently?
MR. BEACH: Budget for what?
MR. SOBOL: Media space.

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THE WITNESS: I initially said there were several problems with the way the question was stated, and one is that we don't track advertising spending by state Our advertising spending is really done on a national basis. In addition the spending - when I say advertising spending, I mean media spending. The media spending is done on a brand by brand basis So you would have to be much more specific on which brand you were talking about.

BY MR. SOBOL:

Q: If I ask asked you what the annual current budget is for media space for Camels or any other specific brand within the Boston region, would you know those numbers?

A: No, I would not I would be able to tell you again because we don't track our spending on a regional basis, but on the annual basis because - I mean on the national basis because that is the way the Camel plan currently is designed

Q: Winston, are they on a national basis as well?

A: Yes, they are.

Q: What other RJR brands are?

A: All of our other brands that are currently advertised, other than Salem, are national plans.

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Q: What's the current annual budget for media space for Camel?

MR. BEACH: Let me object to the form of the question because it's not clear to me that the term media space has been defined.

MR. SOBOL: She used it, not me.

THE WITNESS: Media space is just for that, just for the space. It doesn't include the cost of production of the materials that go on that space or the creative development fee or anything like that, so media space cost for Camel -

BY MR. SOBOL:

Q: Which is your area, right?

A: Yes, in this current year, are about the mid $60,000,000. I'm sorry, I can't be so very specific. The cost does fluctuate month to month a little bit. That includes Red Kamel advertising as well

Q: And that's Camel with a K, right?

A: Yes

Q: Red Kamel?

A: Red Kamel, yes, Kamel with a K.

Q: And that includes the whole Camel line?

A: Yes, it does.

Q: Lights, wides, whatever?

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A: It's just one Camel media budget, that's correct.

Q: And what about for Winston, what's the annual budget for media space?

A: For this current year?

Q: Yes.

A: Again, this is very proprietary, so I believe that Winston's budget currently is about $80,000,000.

Q: And what about Doral?

A: Doral is in the - this year in media space is about between $20,000,000 and $25,000,000, if I recall.

Q: And what about the Moonlight line?

A: Moonlight is less than a million. It's about $500,000.

Q: What other brands is RJR currently marketing nationally?

A: I believe that's it, Camel, Winston, Doral. I'm sorry, you said marketing nationally. If you mean having media expenditures nationally this year, then it's those brands. Obviously we market other brands, but the media expenditures, national media expenditures are only for the brands that you already discussed.

Q: And other than Salem, are there other

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brands which you are responsible for in the media space budgeting?

A: Other brands that may be less than national?

Q: Yes.

A: We this year have a little bit of advertising media spending behind Eclipse, which is in test market.

Q: Any others?

A: Not that I recall.

Q: Are there brands of cigarettes which RJR markets for which you are not responsible for the media space budgeting?

A: If your question is, are there other brands that Reynolds markets, but are not currently using media, yes, there are. They would include More, Now, Vantage.

Q: The Camel mid $60,000,000 budget, is that allocated between print media and out of home media?

A: Yes, it is.

Q: Do you know what the breakdown is approximately between those two?

A: I believe that including Red Kamel in the whole budget it's about 50 - it's almost 50/50, between print and out of home, maybe 52 percent out of home.

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Q: And sitting here today, you are not capable of determining the amount of money allocated in any specific state?
A: No, I am not.
Q: Including Massachusetts and California?
A: That's correct, because we do not track our spending that way.
Q: What about Winston, what's the breakdown between print and out of home advertising?
A: Winston is spending probably about $50,000,000 of its total in outdoor. I don't offhand recall what percentage that is.
Q: So about $30,000,000 for print advertising?
A: That's right.
Q: What about Doral?
A: Doral, I believe, spends something like 60 to 65 percent of its spending in print advertising.
Q: So between 40 and 35 percent?
A: Yes. These numbers are as best I can recall from reviewing recent budget reports.
Q: Are you familiar with the Journal of American Medicine?
A: No, sir.
Q: Are you familiar with an article by Charles King, et al, entitled Adolescent Exposure To Cigarette

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Advertising in Magazines?
A: No, sir, I'm not familiar with it.
Q: Are you aware of any or have you discussed in connection with your work any professional journals that have – articles that have come out during this past year linking cigarette advertising with youth readership of magazines?
MR. BEACH: Let me object to the form of the question on the grounds that counsel is testifying, lacks foundation
MR. SOBOL: I'm allowed to lead this witness. I'm asking her whether or not they have discussed within RJR, as far as she knows, any professional journals, articles that have come out in the past year which show that cigarette advertising is positively related to youth readership?
THE WITNESS: I am not aware of anything, any discussions.
BY MR. SOBOL:
Q: As someone who implements the placement of magazine advertisement of Reynolds Tobacco products, would such a subject be of interest to you?
MR. BEACH: I object to the form of the question, first, on the grounds that it misstates her testimony, secondly, that it's ambiguous. You can

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answer if you can.
THE WITNESS: I would have to hear the question again.
BY MR. SOBOL:
Q: I'm asking you whether or not as the person who is involved in the implementation of the placement of magazine advertisements on behalf of one of the largest tobacco companies in the world, whether or not you would have an interest in a professional journal article which documented that cigarette advertising is positively related to youth readership?
MR. BEACH: Let me object to the form of the question on the grounds that the lawyers, counsel for the plaintiffs is testifying. He is mischaracterizing the article and he is asking a question that's outside of the scope of the notice of this deposition. Subject to those objections, if you want to try to answer the question you can.
MR. SOBOL: I'm not mischaracterizing the results of Charles King.
MR. BEACH: The article speaks for itself, counsel, and we don't need to debate its content or its accuracy here. All I'm saying is that the question is inappropriate for the reasons that I have identified. The witness is free to answer the question if she can.

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MR. SOBOL: I think it's very relevant because this person here is responsible for putting these advertisements in the magazines which other people have said is positively related to the youth readership of those magazines, and she also testified they don't look at statistics –
MR. BEACH: Counsel, you are arguing with the wrong person. You will have your chance to present your case to the jury, but I am objecting to your question for the reasons that I have made very clear on the record at this point. If you want the witness to answer the question, you are certainly entitled to an answer from her subject to my objections.
THE WITNESS: If you are asking if in the context of my duties at Reynolds should I be interested in such an article, I would have to say, no, because my responsibilities at Reynolds are to develop media plans that address and reach adult smokers over the age of 21. We do everything that we – in our power to assure that the magazines that we do advertise in do not reach primarily an audience under 21.
BY MR. SOBOL:
Q: If you are aware of the fact that Sport Magazine, the entire readership for Sport Magazine is 33.8 percent of people between the ages of 12 to 17,

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would that influence your decision on whether or not to advertise in that magazine?

A: First of all, I would need to know if you are asking me hypothetically or what the source of that information would be

Q: Let me ask you a hypothetical If hypothetically Simmons and MRI data revealed that 33.8 percent of the readership of Sport Magazine was between the ages of 12 and 17, would that influence your decision on whether or not to place an advertisement in that magazine?

A: Hypothetically it may. If you are asking me specifically, I would have to be convinced that I agreed that the research from which that number was called was accurate.

Since you specifically mentioned Simmons or MRI, I am assuming that this hypothetical number would be pulled from the combination of their teen study and adult study, and I don't believe that that is valid research. Both Simmons and MRI have told the research community that those studies were never meant to be combined.

Q: Where did you learn that bit of information?

A: I actually heard it from the president of

Simmons myself and from the president of MRI.

Q: Was that in connection with statistics being presented on the amounts of youth readership of magazines in which cigarette manufacturers advertise their products?

A: It was in conjunction with a meeting at which counsel was present, so it's getting into the area of privilege.

Q: Have you heard of Leading National Advertisers?

A: Yes, sir

Q: Do you rely on their data at all in making your decisions on where to place magazine advertisements?

A: We use Leading National Advertisers not to make decisions on where to place magazines or magazine advertising Long, Hames & Carr uses Leading National Advertisers to report tobacco advertising spending after the fact, competitive. It's a competitive tracking process

Q: Now, of the current cigarette brands actively being marketed by RJR in print media, are you aware of the marketing strategy behind those brands?

A: I am aware of the overall marketing objectives of those brands insofar as they were

communicated to me in the development of media strategies.

MR. SOBOL: I am going to ask the court reporter to mark as Exhibit No. 1 the June, 1998 edition of Spin magazine.

(Exhibit No. 1 marked for identification.)

BY MR. SOBOL:

Q: Ms. Ittermann, what I have done is I have put some Post-It notes by where I have been able to find RJR advertisements, and you can look at this magazine in order to review it for your testimony, but I am just going to point out the advertisements to you and ask you a couple of questions on the basis of those specific advertisements. I'm going to begin with a Camel advertisement of this Spin magazine.

A: What do you want me to do, go to the Camel ad?

MR. BEACH: I think he has offered that to the extent you want to review the publication in advance of his questions, you are entitled to do so, and you should do so if you feel that's necessary, but apparently he is only going to ask you specific questions about the ads that he has affixed Post-It notes to.

BY MR. SOBOL:

Q: That's right, Ms. Ittermann, I am going to direct you to specific portions of the document and I want to make sure you are on the right page and everything before I ask you a question, but at any time if you feel you need to refer to the entire document in order to give an accurate and truthful response that's what I want you to do.

The first place I will direct your attention to and if you are ready to go there we can now, is to the Post-It where it says Camel.

Do you see that ad, that Camel ad? And will you just hold it up so the camera can get a shot of it.

MR. BEACH: Why don't you identify it for the record, at least about what page it falls on.

THE WITNESS: It's on -

MR. BEACH: Looks like it follows page 63.

THE WITNESS: Right, page 63.

BY MR. SOBOL:

Q: What is the overall marketing objectives as communicated to you for the Camels currently?

A: I can tell you the media objectives which are -

Q: My question is not with the media objectives. My question is about the marketing

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objectives that were communicated to you
MR. BEACH: I think she was trying to
answer your question
THE WITNESS: The media strategies that
were derived from the marketing objective focused on the
idea that Camel wanted to continue national advertising.
Media was a part of its overall marketing
plan. It was national in scope. There may be secondary
emphasis in certain sales divisions. The overall target
audience is adult smokers 21 to 34, secondary emphasis
on adult smokers 21 to 29, and within this current
year's plan for Camel there is a media strategy derived
from the marketing objectives and strategies that there
would be the introduction of new advertising for the
brand. During that time we would want to have heavy
media support for that new creative introduction.
BY MR. SOBOL:
Q: The specific ad that's in front of you, do
you know whether or not that was directed towards the 21
to 34 year old group or the secondary emphasis group of
21 to 29 year olds?
MR. BEACH: Excuse me, let me object to the
form of the question on multiple grounds. The witness
has previously testified as to the scope of her review
and responsibilities.

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MR. SOBOL: Are you testifying?
MR. BEACH: No, I'm not testifying, but I'm
pointing out that your question is ignoring her prior
testimony and inconsistent with it
MR. SOBOL: If she knows it or she doesn't,
it's a simple yes or no answer.
THE WITNESS: If you are asking about the
content of the ad and how it was developed -
BY MR. SOBOL:
Q: Let me restate my question for you. My
question is whether or not as a person who assisted in
the placement of that particular ad - you did, did you
not?
A: The planning and placement of the ad, yes.
Q: In connection with implementing the overall
marketing objective, is that correct?
A: Yes
Q: And my question is whether or not this
particular ad placed in this particular magazine in this
edition was done in order to implement a specific
marketing objective of meeting the secondary emphasis
age group of 21 to 29 year olds?
A: I am not able to answer that. If you are
referring to the content of the ad, that would be a
creative development issue that you probably should talk

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to someone in brand marketing about. If you are talking
about the physical fact that we have an ad in this
magazine, that would be a media decision. The media
plan for Camel encompasses the full target audience
definition of adult smokers 21 to 34, and so we would
have determined that this magazine was an appropriate
magazine to reach that target audience.
Q: And was - my question is whether or not
the physical placement of that ad regardless of its
content, that Camel ad in front of you, was placed there
in order to reach the secondarily emphasized age group
of the 21 to 29 year olds?
A: Not specifically because as I tried to say
in my previous answer, those were the marketing
objectives, but in terms of the media plan we are - the
media plan is designed to reach the full range of the
target audience which is adult smokers 21 to 34.
Q: And that would be true with regard to every
bit of advertising placed by the media group?
A: For Camel this year, if that's what we are
talking about, yes.
Q: So your group doesn't -
MR. BEACH: Finish your answer.
THE WITNESS: But within that broader
target range of 21 to 34 adult smokers, includes the

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group that you are talking about, the adult smokers 21
to 29, so it's hard for me - I don't really understand
the distinction. Technically I suppose we are covering
both, the full range as well as what's included in the
range.
BY MR. SOBOL:
Q: Certainly if you are covering the 21 to 34,
that would cover the 21 to 29 year age group. My
question is whether or not you make specific placements
of advertisements in order to reach the secondary group?
A: No, we do not.
Q: And that's true with Camel?
A: That is true.
Q: Is that true with all the brands?
A: That is true with all of our brands
currently.
Q: Let me have Exhibit No. 1 back for a
moment, and ask that you take a look at the Winston ad,
and if you could hold it up steady for the camera for a
few seconds.
Now, your group was responsible for the
placement of that Winston ad in this magazine as well?
A: For purchasing the space for this ad,
that's correct.
Q: And what is the current marketing

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objectives for Winston's as they were communicated to you?
A: Winston recently repositioned the brand, so its overall objective for marketing is to generate awareness behind its repositioning The target audience definition for Winston is adult smokers 21 to 34.
Q: What was it previously?
A: Winston had not been advertising for several years before this repositioning, and I don't recall I would be speculating.
Q: Is there any specific economic group targeted as part of the Winston marketing objectives?
A: In terms of how the marketing objectives have been funneled down into media strategies, there is no particular - if you mean economic group, do we have a household income or education kind of target audience, no, we do not. It's simply adult smokers 21 to 34.
Q: Is there any skewing for any particular gender with the Winstons?
A: They are relatively dual audience in terms of male and female smokers.
Q: About half and half?
A: Yes.
Q: And what about with the Camels, is that skewed towards one particular gender?

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A: That's also half and half.
Q: Are the Red Kamels also targeted towards the 21 to 34 year old group?
A: They would be targeted against adult smokers 21 to 34 as well.
Q: Is there a secondary emphasis with the Red Kamels?
A: No, sir.
Q: What aspects of the Spin magazine demographics went into the decision to place a two page Winston ad in this particular edition?
A: Well, let me break your question down. If you are asking what led us to recommend Spin for the Winston media plan, that's one part of the question. The fact that we ran two pages instead of one page really was a creative decision. That was the brand group decision, not a media decision.
Q: Okay.
A: So which part are you asking or both?
Q: Well, I guess I got an answer to the second part. Why don't you answer the first part.
A: In the context of all of the publications which are approved, we go through - every time we do a media plan we consider a lot of different things. The first thing is the composition of that publication's

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audience, which are adult smokers in Winston's case, 21 to 34 adult smokers. That information we get from MRI, but we look at - that's the first thing we look at, the composition of our target smokers within the audience o that magazine.
But then we look at other things as well. Its circulation, vitality, their positioning, have they - their costs, the positioning that they have offered Reynolds as a company in the last several years, the cost relative to other available media, a number of things like that.
Q: What about the Spin demographic breakdown made it appropriate for a Winston advertising placement?
A: In the context of all of the magazines that are approved, when we looked at the composition of the Winston target audience, which is adult smokers 21 to 34, Spin had a very high composition index. It was already in the list of approved titles and it also did an effective job reaching the Winston 21 to 34 adult smoker target.
Q: And what about the demographic breakdown of Spin magazine made it appropriate for placement of Camel advertisements?
A: It would be the same answer as for Winston.
Q: And can you find the Moonlight

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advertisement in that - I think it's the first tab. Are you familiar with that advertisement?
A: Yes.
Q: Can you hold it up for the camera. What's the current marketing objectives for the Moonlight brand or brands as they were communicated to you?
A: Moonlight is - also has a target audience of adult smokers over the age of 21. I don't recall exactly - they do have a relatively higher development among more educated relative to the smoking populatior of smokers, and that's basically it.
Q: Adults over 21, is there an upper limit to that?
A: Not really. It's generally in the 21 to 34 adult smoker area, but in Moonlight it's also appealing to competitive smokers who are older than 34.
Q: What about the demographic breakdown of Spin magazine made it appropriate for a Moonlight advertising placement?
A: Well, because in terms of the 21 plus adult smoker target, it would be the same as 21 to 34 adult smoker target for Winston. This magazine index had a composition index that was over-developed among adult smokers 21 plus.

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Q: What do you mean over-developed?
A: That means more than - it had a composition index that was over 100, more than average.
Q: What's a composition index?
A: Within the readership of a magazine and this is like for MRI, out of the total audience what percent of the total audience of that magazine is within your target audience, and in Moonlight's case, adult smokers 21 plus, and how does that percentage compare to the percent of adults 21 - adult smokers 21 plus in the total U.S. population I think I may have - I think we may have touched on this before.
Q: I think we were talking about outdoor advertising then
A: Okay.
Q: So how is that percentage determined? What's the formula?
A: Which percentage?
Q: The composition index.
A: For the total adult population or for the total readership of the magazine.
Q: I guess I'm having a hard time understanding.
A: It is a difficult concept. Would it help if I repeat it?

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Q: Why don't you tell me for smokers 21, adult smokers 21 to 34, the composition index for Spin magazine was over 100 you said?
A: Yes.
Q: How was that figure derived?
A: Within the total audience of Spin magazine you get a percent from - MRI can tell you a percent of the readers which are adult smokers 21 to 34. In that same research study, MRI can tell you of the total U.S. population what percent of the total U.S. adult population are smokers 21 to 34. You then compare the Spin percentage to the U.S. percentage and form an index with an index being 100 is average. So anything below 100 is less than average and over 100 is better than average composition index.
Q: So would it be fair to say that a composition index over 100 would indicate that the magazine had a percentage of readers within your target above the national average?
A: It means that the magazine has a higher concentration of adult smokers 21 to 34 than does the total U.S. adult population.
MR. SOBOL: We have to change the tape, so why don't we take a quick break.
(Recess was taken from 3:28 p.m. to 3:42 p.m.)

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BY MR. SOBOL:
Q: Ms. Ittermann, returning back to Exhibit No. 1, the July, 1998 edition of Spin magazine, there is a Salem ad there and I put a Post-It there. Take a look at that. Are you familiar with that advertisement?
A: Actually this is the first time I have seen this particular advertising execution, but I am generally familiar with Salem's advertising
Q: Why don't you hold that up so we get a good shot of it. What's the current overall marketing objectives for Salem as they have been communicated to you?
A: The overall marketing objectives that have been communicated to me are to reposition the brand. As that translates into the media strategies we are advertising only in the test market area, and the target audience is adult smokers 21 to 34 with emphasis on adult smokers 21 to 29.
Q: Is there emphasis of one gender over the other?
A: Actually, it's dual audience, 50/50 male smokers to female smokers over the age of 21.
Q: What about economic or educational level, is there a target as far as that's concerned?
A: None that was communicated to me.

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Q: None that made its way into the media plan?
A: That's correct.
Q: What about ethnicity, is there a targeted ethnic group?
A: It's an absolutely total market plan.
Q: Not skewed one way or another in terms of ethnicity or race?
A: That's correct.
Q: And I guess that's the first time you have seen that particular advertisement, is that correct?
A: That's correct.
Q: Can you flip back to the Camel advertisement. It's one of those Post-It's?
A: The name is off. It used to have Camel.
Q: I'm sorry about that. I didn't think I was going to go back, but I did. That's not the first time you have seen that particular advertisement?
A: No, I have seen this one before.
Q: You received complimentary copies of Spin magazine?
A: Yes, I do.
Q: And they are mailed to your home?
A: In some cases the comp copies that I receive are mailed to the office and the other cases to home.

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Q: Have you received this particular edition of Spin?
A: I don't recall if I have
Q: I'm sorry, I should have asked you when you had the Salem ad there, is that Salem ad placed there on a national basis?
A: It would be in New York. Salem advertising is in New York.
Q: So Spin is a national magazine, correct?
A: Yes, that's correct.
Q: And there is a Salem advertisement in that, but it would only be done in a New York edition?
A: As far as I recall, all of the Salem ads are in the New York edition. There may be some instances and I can't recall specifically that occasionally we are in a full national one, but it's by and large New York only.
Q: The Camel advertisement of which you are familiar with there, do you have an understanding of what elements of the content of that advertisement are meant to particularly appeal to adult smokers age 21 to 34?
A: As I have testified previously, I have no involvement in the development of the content of the ads. My responsibilities are in terms of the media

planning and placement.
Q: And I'm just trying to determine whether or not in the course of your function as a media planner you have an understanding of how specific elements of content of an advertisement are meant to address a targeted audience?
A: No, I do not That would be part of the whole creative development strategy and that's done by the brand group.
Q: In conjunction with their creative agency?
A: With a creative agency.
Q: And those brand units, of course, as their name implies are divided amongst the different brands?
A: Are you saying is there a specific Camel brand unit and Salem brand unit? If that's your question, yes, that's true.
Q: This July, 1998 edition of Spin which I can represent to you I bought in North Carolina, contains at least four RJR ads, the Moonlight, the Winston, the Camel and the Salem?
A: That's correct. I would like to clarify a previous answer I gave when you were asking me the brands that are currently advertising. I neglected to mention Moonlight, and as I was looking through Spin, it refreshed my memory that Moonlight is also advertised in

this year.
Q: I thought maybe we had covered that, but sitting here today as one who oversees the implementation of a media plan that is an outgrowth of the marketing objectives, do you have an understanding of the percentage of readership of Spin magazine under the age of 21?
A: No, I do not because we are - our plans are developed based on the readers who are smokers over 21.
Q: You don't know how many smokers or non-smokers are reading Spin magazine who are under the age of 21?
MR. BEACH: Asked and answered.
MR. SOBOL: No, it hasn't been.
MR. BEACH: More generally it has.
THE WITNESS: Since our plans are developed based on the smokers who are over 21, that is what we look at in developing the plans, so I do not off the top of my head know what of the readers does not fall within the 21 to 34 adult smoker group.
BY MR. SOBOL:
Q: So, in fact, you implement your media plans without knowing how many minors are going to be exposed to those advertisements, is that correct?

A: Well, if you recall, we develop a plan based on a list of approved magazines, so we have satisfied ourselves if the magazine has been approved for use by our brands, that it does not reach primarily an audience that's under 21.
Q: But it's not your testimony that RJR approves of magazines that do not reach minors - that do reach minors?
A: I'm sorry?
Q: Let me restate it for you. It's not your testimony that RJR approves of magazines on the basis of whether or not they will reach any minors or not?
A: It is my testimony that we approve magazines based on whether - based on a decision that a publication does not reach primarily under 21 readers.
Q: You do approve of magazines with the understanding of at least some portion of the readership is under 21, is that correct?
A: We satisfy ourselves that the portion under 21 is not the primary audience, so in that context we know that there may be some under 21, but we satisfy ourselves that that is not the primary audience.
Q: And you don't do any specific efforts to determine how many of those people reading the magazines are under the age of 21?

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MR. BEACH: Let me object to the form of the question That's argumentative and it's asked and answered

THE WITNESS: Could you ask it again?

BY MR. SOBOL:

Q: Let's ask it in regards to Spin magazine. You don't know how many people under the age of 21 are reading that magazine, do you?

MR. BEACH: Objection, asked and answered.

THE WITNESS: I don't know the specific number of people under 21 who may be reading the magazine, but I know that it is not primarily - the readership is not primarily under the age of 21.

MR. BEACH: Are you done with this now? I wanted to look at the one that is the exhibit.

MR. SOBOL: Exhibit No. 2, Ms. Ittermann, is a letter to you from Malcolm Campbell. Do you know who he is?

THE WITNESS: Malcolm Campbell is our advertising representative. He represents Spin magazine.

BY MR. SOBOL:

Q: Why don't you take a look at that. Do you recall seeing this letter?

A: If it was sent to me and received I'm sure

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I saw it, I don't really recall seeing it.

Q: Do you recall meeting with Mr. Campbell the end of March of 1994?

A: I don't remember the time frame of my meetings with Mr. Campbell, but I have met with him several times over the years.

Q: Do you recall meeting him and discussing whether or not RJR was going to advertise in his magazine and you telling him that actually that the decision was made not to do that?

A: This letter indicates that I told him that Camel would not be using it during this year, which is dated 1994.

Q: And do you recall communicating that to him?

A: Not specifically, but I'm sure that I did.

Q: Do you recall the reason why RJR determined not to run the Camel ad in Spin at that time?

A: I recall that we, R.J. Reynolds, had a lot of criticism for placing Camel advertising in Spin and we wanted to take the time to fully reevaluate the publication.

Q: What was the nature of that criticism?

A: I don't recall exactly. I believe it had to do with a Congressional hearing where Spin was held

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up with a Camel ad on the back and allegations were made that it was inappropriate.

Q: Inappropriate on what grounds?

A: Inappropriate for Camel's advertising to - and I don't really recall the specifics of the incident, but -

Q: Did it involve allegations of youth targeting, do you recall?

A: I don't recall if it was specifically about youth targeting or the - or specifically about the Joe Camel campaign itself. I don't know in what context it was.

Q: Do you know whether or not it regarded the demographic profile of the Spin readership?

A: I don't know whether any specifics about the demographics of Spin were mentioned at that time because again I wasn't there. I just heard about it, so I don't know.

Q: Did you make the decision to cease advertising Camels in Spin or was that communicated to you?

A: I believe it was - I don't recall exactly. I'm certain that we and the brand managers that were using Spin at that time discussed it and came to a consensus judgment to stop using the brand at least on

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Camel until we could further evaluate the publication.

Q: Do you recall if any directive came from the law department to stop advertising in Spin magazine?

A: I don't recall any directive like that from the law department.

Q: Do you recall a directive coming from outside of marketing at all to stop advertising in Spin magazine?

A: No, I do not recall anything like that. If you have something like that, you might refresh my memory.

Q: You see in the second paragraph there in the last sentence it says "I think we all agree that Spin is a great publication for the brand." He seems to be referring to Camel there. Is that your understanding?

A: He speaks to Camel in the sentence previous to that, so I would assume that he is talking about the brand being Camel.

Q: Did you agree at that time that Spin was a great publication for the brand?

A: I don't recall if I did or not. He is a sales person for Spin, so he may have a -

Q: Spin on it?

A: Spin on it, exactly.

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Q: At the time that RJR stopped advertising in Spin, up until that point did you regard Spin as a good publicaion for advertising?
A: I felt it was an appropriate publication, yes, for Camel to advertise in.
Q: And does RJR have a way to evaluate the effectiveness of its placement of advertisements?
A: If you are asking if - in my capacity within media if we have anything like that, no, we do not.
Q: Did you review any data regarding the effectiveness of advertising placement that may be generated elsewhere?
MR. BEACH: Let me object to the form of the question. I should have objected to the prior question on the basis of the use of the word effectiveness. I think that it's ambiguous.
THE WITNESS: Am I correct that your question was am I aware that there are any data on the effectiveness of - can you rephrase the question?
BY MR. SOBOL:
Q: Sure. The overall goal I would imagine of placing these advertisements is to increase your market share, is that correct?
A: The overall goal of the marketing

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objectives would possibly be that. Again, I'm only in media, so our objectives in media tend to be in terms of awareness and communication of the brand's advertising message.
Q: How is it that your work is evaluated at RJR?
A: I do not believe that media work alone is evaluated or can be because it's just one part of a varied marketing mix.
Q: So the media group just does its part in the overall marketing goal of increasing market share, is that fair to say?
MR. BEACH: Object to the form of the question on the grounds it misstates the witness' testimony. You can answer.
THE WITNESS: If the overall marketing objective for a brand is to increase its market share, all of the marketing elements, mixed elements, would be designed to help achieve that.
BY MR. SOBOL:
Q: Are you aware of any instance where the marketing objective for a specific brand is not to increase its market share?
A: I don't recall any communication that said specifically this is our objective.

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Q: Since efforts have been made to reposition Winston, its market share has increased about nine percent. Is that consistent with your understanding?
A: I don't know the exact number, but I know its market share has increased since the repositioning.
Q: And is that a measure of success for the marketing department?
A: I would consider it to be a measure of success. I don't know what specific market objective was in there. It may have been more - I'm speculating here because I didn't read such a marketing objective, but I would suspect that if there was a market objective of increasing share, that there would be a number associated with it. We would want to increase it by X amount during the next year, and so therefore, the relative success would be based on achieving that goal.
Q: And you don't know whether or not there was a specific increase in market share targeted for Winston since its repositioning?
A: I do know that there was an increase in share for Winston since its repositioning.
Q: And as part of the marketing objective, was there a targeted increase in market share?
A: I'm not aware if there was.
Q: Certainly it reflects positively on the

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marketing people that its share has risen, is that correct?
A: We are all - everyone at Reynolds is pleased that Winston's share has increased.
Q: And do you feel that the increase in Winston share reflects positively on your media group?
A: I would like to be able to say that, but media is only one part of a whole mix of marketing elements that supported the Winston repositioning.
Q: Is the goal of marketing to sell cigarettes, is that right?
MR. BEACH: Object to the form of the question on the grounds of lack of foundation.
THE WITNESS: Well, that's a difficult question to answer because I think it also encompasses our whole sales department as well, not just marketing as we have been referring to it today, meaning brand marketing groups.
BY MR. SOBOL:
Q: After ceasing to advertise in Spin, am I correct that RJR engaged in a reevaluation of Spin magazine?
A: That's correct.
Q: Exhibit No. 3, Ms. Ittermann, is a letter from Malcolm Campbell to Lauri Bauer. I don't see your

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name on it anywhere, but I'm going to ask you if you have seen it before?

As with previous documents and any documents in the future, what I was going to tell you is take your time to read it if you want. I'm going to direct you to specific portions of it, but if at any time you want to refer to the whole thing, let me know.

Do you recall ever having seen this document before?

A: No, I never have.

MR. BEACH: Let me observe for the record it's being characterized as a document by counsel. The witness has testified she hasn't seen it before. Some of the pages bear a fax banner. Pages bates Spin 2, Spin 3, Spin 4, bear a fax banner on the top of the pages. The other pages including the first page and the following pages those two pages don't bear that banner.

MR. SOBOL: It could be they are different documents.

Do you recall seeing any portion of this document before?

THE WITNESS: I don't recall seeing any portion of this document, with the likely – however, it's likely that I may have seen this. This is typically sent out to all advertisers along with comp

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copies of publications.

BY MR. SOBOL:

Q: That's how much the advertising costs?

A: General advertising rates.

MR. BEACH: Just so the record is clear, the witness has referred to bates number Spin 00006.

THE WITNESS: Which is the national advertising rate card.

BY MR. SOBOL:

Q: Let's look at the first page together and in the first sentence Mr. Campbell refers to the R.J. Reynolds 1995 print media quiz. Are you familiar with the print media quiz?

A: No, I am not, and I would – having read through this whole document, I would surmise that Malcolm was taking liberties with assuming the information was requested for R.J. Reynolds.

The reason I believe that is on page Spin 0000003 where he has been filling out all of the information there is even a statement that says if your – that's not right, it was the next one, 004.

If your publication accepts tobacco advertising, so it's apparent to me this was something sent out by Long, Hames & Carr to get the information to put into the computer program to prototype Spin, but it

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was not only for R.J. Reynolds.

I would also say on that same page, 0000004, at the bottom it also clearly says Malcolm – I suppose it's Malcolm that has written this out. The second line of the comments at the bottom refer to RJR/NFG, which is our Nabisco Foods Group.

Long, Hames & Carr also places advertising for Nabisco products as well as a host of other clients, so I believe in answer to your question, that Malcolm was surmising this was for Reynolds, and in fact, this was a Long, Hames & Carr agency request.

Q: You are aware, of course, that Long, Hames & Carr – we have been referring to them as Long, Hames & Carr, but the name is Long, Hames, Carr & Lintas?

A: The name has changed. In 1994, when this was written it was Long, Hames, Carr & Lintas. Since that time they have dropped the Lintas portion of it. It's just Long, Hames & Carr. I don't exactly know when that occurred.

Q: Okay. Now they solicit information from publications regarding – I imagine reader data and other general information, is that your understanding?

A: I have an understanding of what this data is used for at any advertising agency.

Q: Are you aware whether or not Ms. Bauer

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contacted Mr. Campbell in regards to filling out one of their general information sheets specifically for use in placing advertisements with – for R.J. Reynolds or whether or not it was a more general request?

A: I'm not aware, but as I said, I assume based on what this survey looks like that it was a very general request. It's for use in prototyping publications that are not measured in the syndicated study. As it says at the top of 0000002, this is to be completed only if your publication is not included in the 1994 SMRB release.

What that means is that at this time the agency, Long, Hames & Carr, was using Simmons study of media and markets in their computer, and in order to do media calculations on any – for any clients advertising, such as reach and frequency and impressions, they have to prototype a non-measured magazine on a measured magazine. They do that by matching up numbers to – in these key areas, everything from education, income, age breaks, readers per copy and they create a magazine in the computer that replicates a non-measured magazine's audience, so it can be used in media plan illustration, such as reach and frequency.

Q: How many kinds of forms does Long, Hames & Carr have like this, do you know?

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A: I don't know.
Q: Do they have forms specifically that request information just for RJR Tobacco, do you know?
A: If you are asking have they sent out information requesting in regard to RJR brands, I am certain that they probably have. It may not be the same type of information. It would probably be more related to cost or circulation in a certain area if they were trying to do planning for a test market brand for example.
Q: But that would be speculation on your part because you actually don't know whether or not Long, Hames & Carr has a different form when it's requesting information just on behalf of RJR Tobacco, correct?
MR. BEACH: Let me object to the form of the question on the grounds that it is argumentative. It's been asked and answered.
Could you repeat the question, please, court reporter, for the witness.
(The record was read.)
THE WITNESS: I have seen forms that LHC has sent out to publications on Reynolds' behalf on other information that they have requested from magazines that are in a different form than this document you have showed me.

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BY MR. SOBOL:
Q: You don't know whether or not Ms. Bauer – do you know Ms. Bauer?
A: Yes, I do know. Yes, I do.
Q: And you don't know whether or not Ms. Bauer sent out this form to Mr. Campbell expressly to solicit responses on behalf of RJR Tobacco, do you?
A: As I answered previously, I do not know, but it strongly suggests the content of it that that is not the case. That is just an assumption that Malcolm Campbell at Spin has made.
Q: Let's look at page two. See where it says audience demographics?
A: Yes.
Q: And under age 21 it says total 30 percent. Do you see that?
A: Yes.
Q: Did you have an understanding before seeing this document today that Spin magazine at least for its 1994 audience demographics had a readership of 30 percent under the age of 21?
A: No.
Q: Would knowing that fact make you reevaluate whether or not to place advertisements in Spin magazine?
A: Also, on this same document you are asking

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me to look at, it clearly shows a median age that is 23.
MR. BEACH: Excuse me, let her finish answering your question, please.
BY MR. SOBOL:
Q: I'm not asking you what else it says on the document. I'm asking you whether or not the fact that 30 percent of the readership of Spin magazine being under the age of 21 would give you pauses to whether or not to place advertisements there?
MR. BEACH: Hang on, please, Patti, did you finish answering his prior question? If you didn't complete the answer to his prior question, you are entitled to answer his question as you see fit. If you think that you have completed your answer to the question, then you can answer this next question.
THE WITNESS: I don't even remember what the prior question was.
BY MR. SOBOL:
Q: Let me rephrase the question for you. The fact that it reports here that Spin magazine has a readership under the age of 21 of 30 percent, does that give you pause as to placing cigarette advertisements in that magazine?
A: I still believe that Spin magazine is appropriate based on the median age as we had discussed

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earlier.
Q: That median age being 23.6 as indicated here?
A: That's correct.
Q: And that's an indication, isn't it not, that half the readership is under that age, is that correct?
A: As we discussed earlier, that's what median age would mean, that half were above that age and half were under, but as I also stated earlier, the age demographics of a publication are not the only thing we look at in determining if a magazine is approved for our brands advertising. They are an important part but they are not the only part that we look at.
Q: Looking down where it says did not graduate high school, it gives a total of 12 percent. Do you see that? Does that indicate to you that those people are under the age of 18?
A: That would not indicate that to me at all. I believe that there are people well above the age of 18 that have not graduated from high school.
Q: Would you think that any portion of that 12 percent were under the age of 18?
MR. BEACH: Object to the form of the question. It's calling for hopeless speculation by this

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witness. If you think you have some basis and personal knowledge for answering this question, please do, Ms. Ittermann, unless he is going to withdraw the question

MR. SOBOL: You should really stop interrupting this deposition We are taking testimony here in two actions, one pending in the State of California and the other one in the State of Massachusetts These are important questions regarding who it is that RJR is selling their cigarettes to and you have been interrupting this deposition all day long with pointless and needless objections to form.

MR. BEACH: Your speech, as you know, is inappropriate. It's made to the wrong party. If you have an issue with my conduct in this deposition, you know how to deal with it, but don't harass this witness with inappropriate questions or inappropriate speeches to me. Mr. Sobol, why don't you ask your next question, please.

BY MR. SOBOL:

Q: Ma'am, it says here that there is 12 percent of the readership of Spin magazine didn't graduate high school. Does that provide any information to you whatsoever as to the age of people here who are under the age of 18?

MR. BEACH: Objection to the form of the

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question on the grounds it's been asked and answered.

THE WITNESS: As I said previously, I really don't know what that number means. It's totally out of context I don't know how many - what percent of adults in the U S. have not graduated college - I mean high school.

BY MR. SOBOL:

Q: Underage demographics under 21 to 24 you see 32.6?

A: Yes.

Q: If you combine that with the under 21 crowd there you get a total of 62.6, do you understand that?

A: I understand that.

Q: That would mean that 62.6 of the readership of Spin magazine are 24 years old or younger, is that right?

A: That is what it would mean, although it wouldn't be relevant to how we market our products. We market our products to smokers, adult smokers who are 21 and over and our advertising code says that we do not advertise in publications whose audience is primarily under 21. It's clear from these numbers that the audience - that the numbers they have provided that the audience is not primarily under 21.

Q: No, just 30 percent of that?

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MR. BEACH: Is that a question?

BY MR. SOBOL:

Q: Yes. Just 30 percent of the audience of Spin magazine is under the age of 21?

A: Said another way, 70 percent of the audience of Spin magazine is over 21.

Q: So your advertisements that you place in Spin magazine are reaching an audience of 30 percent of the age under 21?

MR. BEACH: Objection, asked and answered. At this point this is bordering on harassment. I won't tolerate it.

MR. SOBOL: You can answer the question.

MR. BEACH: Don't answer the question.

THE WITNESS: I think I already answered the question.

MR. BEACH: I'm instructing the witness not to answer that question. The document speaks for itself. She has answered your question three times, Mr. Sobol.

MR. SOBOL: She wanted to state it as 70 percent. Maybe I should ask her why she wanted to state it as 70 percent?

MR. BEACH: You can ask her any proper question that you want to ask her.

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BY MR. SOBOL:

Q: You have Exhibit No. 4 in front of you. I ask you to take a look at that.

Do you recall seeing this document previous to today?

A: Not specifically, but I'm certain that I did.

Q: Does Reynolds Tobacco advertise in paper?

A: Yes, it does.

Q: And how long has that been the case?

A: I'm sure since after the date of this, since - it's hard for me to say. It would have been after the date of this mission of these evaluation submission of these evaluations, and this obviously didn't come from my files because I have an approval date on each magazine approval, each magazine evaluation.

Q: And what about Interview Magazine, does Reynolds Tobacco interview in Interview Magazine?

A: Yes, we do.

Q: That's been at least since August 26, 1994?

A: That's correct, since the evaluations submitted on August 26, 1994 were approved for use by Reynolds brands. It was probably a little while after that.

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Q: We are done with that one. Here is Exhibit No 5, Ms Ittermann This is a letter you were copied on

A: Okay.

Q: Do you recall seeing this document before?

A: Not specifically, but I am sure I did.

Q: I suppose it should go without asking that since the time that Reynolds pulled its Spin advertisements and engaged in a reevaluation process, it decided to place advertisements back in Spin, is that correct?

A: Well, if this is a summary of '94 ad positioning, I would – this is a summary of anything that we as a company placed in Spin magazine in the year 1994, and I don't know specifically the time period that we decided Camel would no longer advertise in Spin. It could have been in March, but we had happened to run something in February or another brand, so it's difficult for me to answer.

Q: Do you know what 100 percent preferred positioning record refers to?

A: Yes, I do

Q: What is it?

A: It is our print quality guidelines that Long, Hames & Carr sends out to each publication we

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advertise in and it specifically states the kinds of positions for our advertising that we consider preferred or acceptable or unacceptable.

Q: And 100 percent preferred refers to?

A: That of all of the ads in this document that you are speaking about, for the full year of 1994, all of the R.J. Reynolds ads that ran in Spin magazine were placed in preferred positions.

Q: Would the fact that Spin magazine having received a 100 percent preferred positioning record lead you as a media planner to consider continuing with Spin? Is it a sign that you would want to continue doing business with them?

A: It would have nothing to do with whether or not we approved Spin.

Q: Right. Presuming it's approved, would it lead you to placing more advertisements with them?

A: It could – generally the reverse is true. If the magazine gives us 100 percent unacceptable positioning, then that would be a factor that we would consider whether or not we wanted to continue to use that publication.

By the way, this positioning, these positioning guidelines and tracking are typical of every advertiser. They all have positioning guidelines that they give to publications.

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Q: Exhibit No. 6 is a letter from Malcolm Campbell to Susan Kendall dated May 9, 1995. Have you seen this letter before with attachments?

A: No, I have not.

Q: It appears Mr. Campbell is being a little aggressive and doing a little pitching of his magazine, is that –

A: This kind of data that's attached to it is very typical of when magazine suppliers come in to sell advertisers advertising.

Q: So what –

A: We typically do not use the numbers, by the way.

Q: You don't rely on their numbers?

A: That's correct.

Q: But what he appears to have done is taken the fall MRI data of all the magazines on Camel's current advertising roster. Does that appear to you what he has done?

A: I can't remember if these were the magazines on – I mean, did he say that. That's what he says in the letter.

Q: Why don't you briefly look at all the

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magazines listed on, say, Spin 8 there and let me know if you believe that any of those magazines were not on the Camel roster in 1994?

A: RJR has used all of these magazines in the past and so they reasonably could have been on Camel's list in that year.

Q: And there is – I guess there is five columns. One is the rank and one is the particular magazine, and then the average audience. Do you see that?

A: Yes.

Q: An the next one says percent comp. Do you know what that refers to?

A: Yes, that's that percent composition of whatever the target audience is within the full readership of that magazine. In this case, Malcolm's target is at the top, is smoke cigarettes, so it is just a smoker percentage. It is saying that of number one, which is on this list, Bassmaster magazine, 43.6 of the total readers of Bassmaster are smokers.

Q: And 33.5 of Spin readers are smokers it says there?

A: 33.5 of Spin readers.

Q: And let's look at the next page, Spin 9?

A: Again, this is information that Malcolm

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provided
It's not anything that we did, so he was taking liberties in determining what the base - what the target market is, etc.
Q: And this is the target market of ages 21 to 34 that smoke cigarettes. Do you see that?
A: (Witness nods head.) Yes.
Q: And do you have an understanding that MRI generates that kind of information?
A: Yes, it does.
Q: And what about the next page, Spin 10?
A: It looks like a typical MRI run, information that's available from MRI. In this case it was the 1994 MRI fall study, just one wave, not the annual study.
Q: On page ten, the target is listed as age 21 to 24 who smoke cigarettes.
A: That's correct, that's how it's listed.
Q: And is it your understanding that MRI can generate that kind of data?
A: Yes, they do. As I think I mentioned previously, that in planning our media we use MRI data to determine the composition of our target audiences, such as adult smokers 21 to 34 and we can get that from MRI.

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Q: And you see where Malcolm has placed his magazine as number one under the rank of target market 21 to 24 smoke cigarettes?
A: Yes, I can. However, on that same line I also see that it's asterisk'd that the projection is relatively unstable due to the small base that was used, use with caution.
Q: And I'm not asking you to comment on the accuracy of the data here provided by the advertising director of the magazine. I'm just wondering if it's consistent with your understanding of the readership audience of Spin magazine that it has a relatively high index for smokers age 21 to 24?
A: That would be consistent with my understanding.
Q: Do you know of other magazines that have a higher index rating than Spin in that particular target group?
A: I don't know offhand without actually doing a run, a current study run. I am certain there are probably other magazines that index very high, but we would again use this with caution, too, because of it being asterisk'd and the base is very unstable, which means they had a very low respondent count in the research.

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Q: And you are currently on the comp list for Spin, right?
A: That's correct.
Q: Let's take a look at Exhibit No. 7. I will get this one out of your way.
A: Okay.
Q: Do you recall - let me ask you, when is the last time you saw this document?
A: Geoff, I believe told me about it during the deposition prep.
Q: Did you review this document as part of your deposition preparation?
MR. BEACH: Let me say, the content of what occurs during our prep sessions is privileged. Mr. Sobol, as he knows, is not entitled to discover the content of our conversations. On the basis of that I would instruct you not to answer the pending question.
MR. SOBOL: But my question doesn't go to the substance of your communication. My question is whether or not she reviewed this particular document for her deposition?
MR. BEACH: Preparation session.
MR. SOBOL: You are instructing her not to answer whether or not she reviewed this particular document?

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MR. BEACH: If you are asking whether her reviewed this document out of the context of any sessions with me, you can certainly ask her that question. If you are asking it in the context of preparation involving me as her counsel, then, no, you are not entitled to ask that question.
MR. SOBOL: Under California and Massachusetts I'm not allowed to know which documents she reviewed with counsel in preparation for your deposition.
MR. BEACH: Well, I'm telling you - I think I made my position clear. If you want to ask her whether she reviewed this document outside of the presence of counsel for her own purposes, be my guest.
BY MR. SOBOL:
Q: When was the last time you saw the document?
A: I saw the document in the presence of counsel.
Q: When was that?
A: I don't remember the exact date, last week.
Q: Let me ask you a yes or no question. Did you meet with counsel in preparation for your deposition?
A: Yes, I did.

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Q: On more than one occasion?
A: Yes
Q: On how many occasions?
A: As I recall, it was about one or two hours each on three times.
Q: Was that with Mr Beach each time?
A: Yes.
Q: And were there others present during any of those sessions?
A: No.
Q: At any time, are you aware of whether or not RJR advertised in Movieline magazine?
A: Yes, I am aware. Actually we still advertise in a publication in Movieline.
Q: And as of June of 1987, was RJR advertising in Movieline?
A: As of June we would not have been because it had not been approved yet. It doesn't seem from this letter that the publication had been approved.
Q: Do you recall when the publication was approved?
A: No, I do not
Q: Do you recall if it was before 1990?
A: I would be speculating.
Q: Do you recall if it was after 1995?

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A: If the publication was approved - if it was after 1995, it would have been a re-submission of an evaluation for Movieline.
Q: So it was approved sometime prior to 1995?
A: I believe so, but I don't really recall. I believe this was a magazine - at this time, though, when this was written in 1987, I personally wouldn't have been the person who approved the publication for corporate use.
Q: Would you have any involvement in that approval process at that time?
A: It appears from the context of this letter that a media planner who reported to me prepared the evaluation for submission for approval, and I was directing him in doing that.
Q: And who would have passed on that decision at that time?
A: That would have been the media director at the time.
Q: Who was that?
A: In 1987, I believe that was Dan Pearson.
Q: And in 1987, did RJR have a policy of not targeting the 18 to 21 year old group?
A: In 1987, certain of our brands had target audiences that were adult smokers 18 to 34 or may have had a secondary target audience of adult smokers 18 to 24.

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Q: Now, there is some handwriting at the top of the page. Do you see that?
A: Yes
Q: Is that your handwriting?
A: Yes, it is.
Q: And can you read it into the record, please?
A: Just read my note. "I love this memo, Gabe. This is really Gabe's opinion" - Gabe's is underlined three times - "and has the power of conviction! I'm convinced! Let's add to the main reco, take out 'posters' reference and send it forward," underlined. "Let's discuss before you give to Carla. Thank you," and it's got my initials, PFI.
Q: Who is Carla?
A: Carla was our secretary at the time.
Q: So what you are directing him to do is take out - make a couple amendments to the evaluation and give it back to the secretary so you could pass it on to Dan Pearson?
A: Yes, but I would like to put this in context, why this note is so effusive in my praise, and it has to do with the fact that Gabe was -

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Q: I didn't ask you that. We reserve our motions to strike until time of trial, but if you want to add something, I'm not going to rudely interrupt you, but -
MR. BEACH: Counsel wants you to read things into the record, but not to have you explain them. I will ask you to explain it at the conclusion of this deposition, Ms. Ittermann, so you don't need to do that now.
MR. SOBOL: And if we need to, then I get a chance to do a cross-examination of the redirect.
THE WITNESS: I would like to explain.
MR. BEACH: Okay, I will put it on my list.
BY MR. SOBOL:
Q: Did you have an understanding as a result of Mr. Gabriel's evaluation of Movieline that it was targeted for younger adults?
A: I had - I can't recall specifically, but since I said after reviewing both of the evaluations he had done, I am recommending Movieline for corporate approval, therefore, I had an indication from those evaluations that the audience reached predominantly an adult audience.
Q: Younger adult audience?
A: I would have sent the approval for

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corporate approval through based on the fact it was predominantly an adult audience. That's step one. Whether or not it was going to be used by Camel would probably – I mean, the reason that Gabe states is that it was on target for Camel, and so that would indicate that it would be a magazine that was effective in reaching adult smokers 18 to 34 or 18 to 24 adult smokers however the Camel target was defined in this year.

Q: Do you see where he says "Not only the feature celebrities, but also the style of the editorial is directed toward the younger audience"? Do you see that?

A: Yes.

Q: Do you know what he meant by the younger audience?

A: I am certain that he meant the younger adult smoker audience, that is our target, because that's the audience that we were interested in.

Q: That would be the ages of 18 to 24?

A: In the year 1987, our target was defined as smokers 18 to 24 or smokers, adult smokers 18 to 34, our target for Camel

Q: An the fact that Movieline was targeted for younger adults with style of editorial directed towards

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the younger audience, would that make it "on target" for Camel and other brands with a younger adult target as Mr. Gabriel has said?

A: It is part of the evaluation. This obviously from the context of this note it talks about previous evaluations primarily based on quantitative information, and on the gist of my note to Gabe at the top which talks about some power of conviction, this is – it appears to me that I had asked Gabe to go back to the evaluation and look at the other aspects.

As I mentioned this morning in the long list of elements of an evaluation, part of it was the editorial focus, the other advertisers. It wasn't only age demographics and it's apparent for me that from this note that a previous evaluation may not have covered that. That was missing and that's why Gabe has now sent this note to me.

Q: The previous evaluations which Mr. Gabriel had performed lacked the information with regarding Movieline's editorial content?

A: Possibly, and I am saying that only because of the sentence that says "previous evaluations were based primarily on quantitative information" because I wasn't familiar with Movieline's editorial. So in other words, he took the time to be able to explain what the

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editorial focus was by reviewing several issues. That's what I am getting from this memo you have showed me.

Q: And was Mr. Gabriel relatively new to the company at the time?

A: I don't remember. I don't recall that. I don't believe – I believe that he had been in media probably as long as I have – had been at that time

Q: Have you heard of a magazine publication called Sweater?

A: Yes, I have.

Q: And RJR advertises in Sweater?

A: Yes, we have.

Q: Do you currently?

A: It's my understanding that it's no longer going to be published, but as of the last issue, we placed advertising, yes.

MR. BEACH: Excuse me, if you are moving into a new area

MR. SOBOL: I'm still on magazines actually.

MR. BEACH: I'm just talking about if you are done with this document, we have been going about an hour and 15 minutes and I would like to take a short break.

MR. SOBOL: I have probably about another

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hour, hour and 15 minutes and –

MR. BEACH: Well, I will talk to the witness about what her availability is during the break.

(Recess was taken from 4:56 p.m. to 5:14 p.m.)

BY MR. SOBOL:

Q: Before we leave document No. 7, Ms. Ittermann, the second to the last sentence written by Mr. Gabriel refers to other brands with a younger adult target, and I want to ask you whether or not you have any understanding of what brands other than Camel had a younger adult target in 1987, if any?

A: I don't recall any other brands that – I don't recall specifically any brands that had a younger adult smoker target in 1987. I can surmise that the why he put that is because this was a document to be going forward for corporate approval and in the future there may be brands targeting adult smokers 18 to 34 who may want to consider the use of Movieline.

Q: We were discussing Sweater magazine and you stated your belief that it's no longer going to be published?

A: That is what I have heard, yes, that's correct.

Q: Where did you hear that from?

A: Actually, I heard that from Fran Creighton,

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who is the vice president of the Camel business unit.
Q: Was Camel heavily advertised in Sweater magazine?
MR. BEACH: Objection to the form of the question on the grounds it's ambiguous as to what you mean by heavily advertised. If you understand what he is asking you can answer the question.
BY MR. SOBOL:
Q: Let me rephrase the question. Have you heard the reference to the Camel advertisements in Sweater magazine as the anchor advertisements?
A: No, I have not heard that. Camel advertised in Sweater magazine the same as we have advertised in other publications. It was just part of our media plan.
Q: Do you know the reason why Sweater is no longer going to be published?
A: I don't know the reason why.
Q: Do you know whether or not Reynolds made a decision independent of Sweater's decision to no longer publish that it would pull its advertisement from Sweater?
A: I don't know of any such decision.
Q: Do you know how much Reynolds spent in advertising in Sweater?

A: I don't recall specifically.
Q: Do you have a ball park figure of what it spent in the past year on Sweater magazine?
A: In the past year - again, this is just speculating I would be speculating -
MR. BEACH: Ms. Ittermann, you shouldn't speculate. He is entitled to your best estimate, not speculation If you can give him a best estimate, please do so.
THE WITNESS: In a full year's period, however many issues of Sweater are published, the plan was that we would spend on Camel less than $200,000 in that magazine as an - that's my best estimate.
BY MR. SOBOL:
Q: And what's your estimate of the amount Camel has spent in Spin magazine over the last year?
A: I can't even estimate. I deal with so many different brands and plans I don't know specifically for that magazine how much we would have spent on Camel only.
Q: I appreciate that, and I don't want you to speculate, but would it be in excess of $2,000,000?
A: Again, I don't know. I would have to remember what the cost of a single page was and estimate how many pages we were running, and I can't do that off

the top of my head.
Q: Have you heard of KBA Marketing from Chicago?
A: Yes.
Q: And do they work with Reynolds in any way?
A: Yes. KBA is the independent contractor that designs and executes club programs for our brands.
Q: Is your group involved in club programs?
A: No, they are not.
Q: I am going to shift emphasis now onto the out of home advertising, and by way to catch us up where we left off with that, LHC develops tactical plans which include reference to the weight and geography of the out of home advertisements?
A: That's correct.
Q: And those tactical plans are reviewed by the media group in conjunction with the business brand units in order to pass on whether or not they approve of the particular tactical plan?
A: That's correct.
Q: Just to refresh on weighting, you reviewed Traffic Audit Bureau reports or Long, Hames & Carr reviews Traffic Audit Bureau reports?
A: Long, Hames & Carr may review specific Traffic Audit Bureau reports, but I refer to the Traffic

Audit Bureau in reference to the fact that they are the ones who audit the circulation of outdoor advertising, not for a particular company, but for the out of home - for the supplier who owns the outdoor structure.
They are very similar to the Audit Bureau Circulation for magazines, which I also referred to earlier. The Traffic Audit Bureau audits the daily effective circulation of outdoor. It's an independent advertising industry organization that is used by many suppliers, advertisers and agencies.
Q: Are there other independent outside agencies that look at daily effective circulations for out of home advertising?
A: There may be. I'm not aware of the specific name of it, but the Traffic Audit Bureau is the primary circulation audit organization for outdoor advertising.
Q: Does the media group refer or review Traffic Audit Bureau reports or is that left to LHC?
A: That would be left to LHC.
Q: And without getting into how it's calculated, can you tell me generally what the daily effective circulation is?
A: That is for an advertising, for a billboard, for an outdoor advertising sign. It is a

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measurement of the traffic that goes by that sign in any daily period.
Q: Would that be just limited to automobile traffic?
A: That's what I am most familiar with. I don't know if the Traffic Audit Bureau audits other forms
Q: Pedestrian traffic or others?
A: Right.
Q: And the reports that LHC provides to you, do they break down the daily effective circulations?
A: Our plants are based on the gross rating points that I mentioned earlier, so their communication with R.J. Reynolds or Long, Hames & Carr's communications with R.J. Reynolds, would be in terms of the gross rating points delivered.
Q: And the gross rating points, are they calculated by the Traffic Audit Bureau or by Long, Hames & Carr?
A: They are calculated by Long, Hames & Carr using the daily effective circulation, using the 2.1 adults per car that is multiplied by the daily effective circulation to get the total adult gross impressions per day, and then that number is divided by the market population which is 18 plus to come up with a gross

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rating.
In some cases there may be outdoor suppliers who will do that for Long, Hames & Carr and show the calculations for their individual markets.
Q: So the Traffic Audit Bureau gives reports of daily effective circulation which LHC then turns into the gross rating points for RJR Tobacco?
A: Basically that's how it happens. All of our outdoor - whatever forms are in the plan we calculate the total impressions. It's kind of difficult. If you looked at a particular market like Winston-Salem, all of the Winston outdoor advertising locations in Winston-Salem, North Carolina, would be added up in terms of their gross impressions for each one that consists of the daily effective circulation times the adult views per day. All of the gross impressions are then added together and that composite number is divided by the market, 18 plus adult population, to get the showing weight or the GRPs.
Q: And that's the formula that's to your knowledge in use today?
A: That's a standard formula across the advertising industry for all products.
Q: And what kind of units are used to measure the daily effective circulation, do you know?

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A: I don't know specifically, but I would assume because the bulk of outdoor advertising consists of bulletins, 30 sheets and eight sheets, that those are the forms that are measured. I don't know that for sure, but that would be my best estimate.
Q: Do you know whether or not the unit used in terms of what the traffic is, is that automobile or persons in an automobile that are used to calculate the daily effective circulation?
A: Again, I don't know if this is the only measurement that's used, but the one that I am most familiar with is a measure of the traffic, vehicular traffic that goes by a particular billboard, and that constitutes that daily effective circulation.
Q: And my question is, is the units used to measure the traffic vehicles or persons within a vehicle? Do you know which one is used?
A: For the daily effective circulation, it is the vehicles, I believe, and to that number the outdoor industry has determined there are 2.1 adults per car. So that 2.1 would be multiplied by the daily effective circulation to get to a gross impressions number per day.
Q: And the total gross impressions is then divided by a census figure of 18 years and older to

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determine the gross rating point?
A: Yes, that's correct, 18 plus adult population.
Q: And would it be fair to say then that the gross rating point gives you some sort of indication of the exposure that an out of home advertising ad would have in the population above the age of 18?
A: If exposure you mean weight level is what we refer to it as, yes, that's the weight level of an out of home showing.
Q: Now, in the tactical plan developed by LHC, how do they list the gross rating points, by region or some other manner?
A: Just in a summary scope, I had mentioned that we - the plan would say if the out of form was national or whatever geography it was in, there is a percent of U.S. population, number of divisions or regions, but the weight level would be consistent across all those markets.
Q: I take it that the media group doesn't go down to the level of which billboards in which city to place advertisements, is that fair to say?
A: Within LHC media there are several groups. We have been talking about the media planning group primarily, but once the plan is approved there is an

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outdoor group which actually purchases our outdoor advertising. I'm sorry, your question was do they look at every location?

Q: Yeah, I guess I'm trying to determine how it is that a billboard advertisement gets there, and that would be part of the implementation of the media plan, is that right?

A: Yes, it would

Q: And you supervise that as well?

A: That's correct.

Q: And the outdoor group which you referred to which implements the out of home -

A: They purchase the billboards.

Q: Are they at LHC or Reynolds?

A: They are LHC employees.

Q: How is it that they determine which billboards to purchase?

A: Well, it's a process that we go through. Once we determine which, what divisions or markets we are going to have out of home and what the weight level is, they would ask the - this is LHC, I said they are LHC employees. In some cases they also use contract out of home buyers, but in most cases it is Long, Hames & Carr's employees and it's all supervised from the Long, Hames & Carr out of home operations office of

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Winston-Salem.

They would ask for proposals from outdoor suppliers in all the markets planned, and then when they got the proposals they would put the plan together. It's sort of a difficult process to explain.

In addition to weight level, the coverage of the market would be a factor.

Q: The geographical coverage?

A: Yes. Let me give you an example verbally. We may have a goal of 60 GRPs per day, and we get proposals and LHC could purchase a weight level of 60 GRPs per day within budget, but all of the proposed locations are in the northern sector of Atlanta, if Atlanta was the market, and there is nothing that's in the southern sector or the western or eastern, so that wouldn't be a good way to purchase the outdoor. We would also want to provide geographic dispersion within the markets

So they look at the proposals which have been proposed by the suppliers as an inventory that's available. The suppliers in that proposal will verify that all of the units that are being proposed are in compliance with tobacco restrictions and the Long, Hames & Carr out of home buyer plots out a plan that will achieve the dispersion within the market and within the

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budget and meeting the GRP goals and makes a preliminary plan. Then they tell the supplier this is what we would like to purchase. Well, they negotiate on the cost subject to market rides, and this is the timing that we are going to purchase it.

It's subject to the market rides because we have buyers who - out of home buyers who will go into each market and physically ride the unit, ride the whole market and the out of home locations that have been proposed to verify that they are quality locations and in compliance with all of our restrictions as far as they can ascertain, and then they will make the final buy.

A contract is issued which clearly states what it is that we are buying and for what time period. LHC issues this to each of the outdoor suppliers. The contract also has very boldly on the front what the advertising restrictions are. In most cases that wording is like from the industry advertising code that there can be no R.J. Reynolds advertising on units that are within 500 feet of an elementary school, a junior high school, a high school or a child's playground and in the selected - and that wording is on the front of the contract, and is also on the back of the contract with a whole lot of other legal stipulations and

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instructions on how to submit invoices, etc.

If in the event that the out of home purchased is in an area that has restrictions that go above and beyond the tobacco industry code, those specific restrictions are also listed on the contract.

Q: Such as California?

A: Such as California.

Q: You referred to a 60 GRP per day, and I want to get an understanding of what that means. Would that be for a specific brand nationally reaching a 60 GRP per day?

A: It may be if the brand is having national advertising. I have to say, I would like to inject here, that if the plan says national advertising, we at R.J. Reynolds and Long, Hames & Carr know that that would exclude states where we have agreed not to advertise anymore or which do not allow tobacco advertising or city, states or cities.

So if we have national advertising on the tactical plan, it would have a range, that the range may be that we would have a GRP level of 60 to 80 GRPs and that means that in every market in which we have outdoor advertising, the weight level would fall within the 60 to 80 GRP range.

Q: What's the GRP range currently for Camels,

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do you know?
A: Actually, Camels is currently at about 45.
I think the range is 45 to 60 GRPs.
Q: Per day?
A: Per day. It's measured - GRPs in outdoor
advertising is measured on a daily basis. I mentioned
that the term GRPs is used in other mediums and it's
usually measured on a four week period, but in on
outdoor advertising that would be unwielding, so it's
measured in GRPs per day.
Q: And the 45 GRP to 60 GRP per day for Camels
currently, that applies to its national exposure, is
that correct?
A: Camel actually this year is - has outdoor
advertising. If you are talking about the current year,
only in about 40 percent of the U.S..
Q: So the 40 percent of the U.S. which has
currently Camel out of home advertising is done on a 45
to 60 GRP per day basis?
A: That's the - yes, that was the tactical
plan that was approved and that RJRC is implementing. I
would like to interject here that that very specific
kind of information I feel is competitively proprietary
on the percent of U.S that Camel is advertising and the
weight level.

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Q: I will state for the record that for the 30
days after this deposition is taken the whole thing is
treated highly confidential, at which time counsel is
supposed to designate thereafter what is confidential,
and I'm sure you will have an opportunity to do that.
So would a 45 to 60 GRP per day mean that
approximately 45 to 60 percent of the populations within
those areas are being exposed to that particular out of
home advertising?
A: GRPs, as I said, were the gross impressions
divided by the 18 plus market population. The
definition of impressions is the opportunity to see -
that doesn't mean that people actually see it. So in
answer to your question, a 45 to 60 daily GRP range
means that within the market where Camel is advertising,
there is the opportunity that - it's not exactly a
percent, but the weight level against the 18 plus adult
population would be 45 to 65.
Q: But the weight level doesn't correlate to a
percent of that population over the age of 18?
A: I don't think you can express it as a
percentage. It's the number of potential exposures,
which is the definition of impressions, divided by the
total market population.
Q: Okay.

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A: That's adult 18 and plus.
Q: Hypothetically speaking, if all those
impressions, all those opportunities to see, actually
saw the advertisement, would it be then that a 45 to 60
GRP would mean that 45 to 60 percent of the 18 plus
population within those areas being advertised would
have seen it?
A: No. That would not be accurate because
it's based on gross impressions and within gross
impressions there could be duplications. It could be
the same person seeing it several times, so I couldn't
really say that it would be a percentage.
Q: If no two people saw it twice, though, it
would be a percentage?
MR. BEACH: Let me object to the form of
the question on the grounds I think the witness has
already answered your question.
MR. SOBOL: You are right, I will strike
it. I have enough of an answer. You don't have to
object.
Part of the tactical plan adopted for
particular a brand includes where to place outdoor
advertising, is that correct, where geographically
speaking?
THE WITNESS: Geographically speaking,

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that's correct.
BY MR. SOBOL:
Q: And there are some states where you don't
advertise out of doors at all because you are not
permitted to under the law, but in those areas where you
are permitted to advertise out of doors, how does a
decision making process take place to determine where to
place them, geographically speaking?
MR. BEACH: Let me object to the form of
the question on the grounds to the preface of the
question. I don't really have a with the question.
problem, but the premise of the question misstates the
witness' testimony. You can go ahead and answer his
question.
THE WITNESS: I don't really understand
what you are asking Can you ask me again?
BY MR. SOBOL:
Q: How do you determine geographically where
to put out of home advertising aside from legal
constraints or GRP considerations?
A: Either going back to how we get to a media
plan development initially is coming from the brand
marketing group, the areas that within the overall
marketing, the geographic areas that are emphasized,
that's information that is given to media. So the brand

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groups would be better able to tell you how they determine the geographic emphasis area
Q: That's not something which your group determines?
A: That's correct.
Q: But in implementing the media planning, and in particular, the out of home aspect of the media plan, Long, Hames & Carr or an independent contractor working with Long, Hames & Carr makes a determination as to which specific sites to place out of home advertising.
A: Yes, in the context of all the things that I mentioned previously that they look at, compliance, geographic coverage of the market, budget parameters, GRP goals, they may determine specific locations in some forms. Let me give you an example which would be more difficult. They can determine that we will use taxi tops for advertising in a market, but they can't specifically decide where the taxi is going to go. So that might be a caveat to my answer.
Q: But they certainly make a determination to whether or not they are going to place advertisements on taxi tops within a given geographical area?
A: Yes, they do.
Q: And is there a way to determine the GRP for taxi tops?

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A: I'm sure there is, but I don't know what it is.
Q: And do you know whether or not the GRP for taxi tops is used in determining where to place - which areas to place taxi top advertising in?
A: In developing the whole market plan as I have said before, the out of home buyers would have a GRP goal that they are trying to achieve and so each market will be different on what forms are needed to come up to that overall GRP goal.
Q: Let me ask it this way, the tactical plans, do they describe how much billboard advertisement would be done as opposed to transit, as opposed to eight sheet, 30 sheet, whatever else?
A: We consider them all outdoor advertising showing, and as I just said, each market may be different, which forms of outdoor are used. There is a lot of factors that go into selecting which forms within a market we will use to achieve our tactical plan objectives.
Q: What do you mean by market in that last sentence in your last response?
A: It differs. It differs quite often by city zoning There are portions of a city that may be zoned out for outdoor advertising, other portions that are

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still in the same city, but they are in a different area. Like an industrial area may allow it. There is a lot of factors that contribute to it.
So it could be a market in terms of a city. It could be a county, whatever parameters that we have to use.
Q: So the form of out of home advertising depends on the geographical market -
A: Excuse me, and it could be a state as well. There could be a state that bans certain types of advertising. It might ban, for example, stationary structures, but it may not ban transit advertising. I'm sorry, I interrupted you.
Q: All that implementation is done on the level - strike that.
You oversee the implementation of all of the out of home advertising across the country, is that right?
A: That's correct.
Q: And you review where advertising is placed in the State of California?
A: Generally speaking. When we are talking about me overseeing the implementation, I do not see every specific location. I oversee Long, Hames & Carr as they implement the plan.

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Q: So to get more specific information as to the decisions as to where in California out of home advertising is placed, I need to talk to Long, Hames & Carr?
A: What do you mean where it is placed? If it's placed in terms of why is it placed in the city -
Q: Why is it placed in the city? Why is it placed in this part of the city? How much of it is billboard? How much of it is 30 sheet? How much of it is in transit?
A: I think I answered that, though, because I told you those decisions have to be made almost in each individual city, and it's based on a number of factors, inventory that's available. Sometimes there is no 30 sheet inventory available for advertisers, so we have to look at - Long, Hames & Carr will look at other forms.
Overall, it's what does it take to get to comply with all of the restrictions, to meet a gross rating point goal and to do it within budget.
Q: I understand. My question is more to get specific information as to how all those decisions are being made on the local level, say, in California or the Commonwealth of Massachusetts, Long, Hames & Carr in connection with whatever independent contractor they may use in those particular areas are the people to talk to

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to determine exactly what goes behind those decisions?
MR. BEACH: Let me object to the form of the question on the grounds that it's ambiguous from the terms of it goes behind those decisions. I'm not sure I understand what you mean by that. If you do, Patti, go ahead and answer his question.
THE WITNESS: I would say that if in saying decisions you are referring to this is the out of home showing, then our Long, Hames & Carr buyer is recommending that is then reviewed by the Long, Hames & Carr outdoor group in Winston-Salem, and then they are not making independent decisions, the buyer is what I'm trying to say. They are making - they are putting together the outdoor plan in the particular market. They are then telling the outdoor group at Long, Hames & Carr this is what we are recommending, and I guess the decisions would be made by the outdoor group at Long, Hames & Carr in Winston-Salem.
If there is anything that is out of the ordinary, I would be involved in it.
BY MR. SOBOL:
Q: But the day-to-day decisions as to specifically where to place ads on a local level is done primarily by Long, Hames & Carr with your general oversight?

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MR. BEACH: Objection to the form of the question. It's been well asked and well answered many, many times during today's deposition.
MR. SOBOL: I'm just trying to make sure I understand. Is that consistent with your understanding?
THE WITNESS: If you mean by day-to-day decision - can I use an example as what I think you mean?
BY MR. SOBOL:
Q: Sure.
A: If you mean by day-to-day decision can a Long, Hames & Carr buyer after the whole plan is in place tell an outdoor supplier I want that 30 sheet moved to that corner because that unit just became available and meets all of our criteria and is in compliance, yes, they could do that. The Long, Hames buyer could do that. That's a day-to-day minor tactical revision.
Q: That's not the kind of thing you would oversee?
A: I would oversee more of the everything together. That is something that a Long, Hames & Carr buyer could do independently. I wouldn't probably even be told that that 30 sheet moved from Third Street to Fourth Street because in the context of the entire plan

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it's in compliance, it contributes to the correct RPG goal and it's within our budget.
Q: And to use another example, if there was a Campbell billboard on Route 101 in San Francisco at the corner of Feld Street, that would be something that a Long, Hames & Carr person made that decision to place that particular billboard advertisement there?
A: They would have made the decision to recommend that as part of the overall - I think you said Camel plan, outdoor plan in that market, yes.
Q: Do you know whether or not RJR advertises in out of home media in Massachusetts?
A: Yes, we do advertise in out of home.
Q: And, of course, you do in California as well because we have been using those as examples?
A: Yes.
Q: And what is the GRP per day for Winston currently under the current tactical plan?
A: As I recall, the GRPs for Winston for this year's plan are a range of 80 to 100 GRPs in certain markets. Let me qualify that. In certain markets that is what the range is.
Q: In certain geographical markets?
A: Yes, in major metro markets that is what the GRP level is. In the balance of the country the GRP

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range, as I recall, is 60 to 80 GRPs.
Q: The 80 to 100 GRPs in major metro areas, does that include major metro areas in California?
A: Yes, that would be - and when I say major metro markets, I'm talking about major metropolitan RJR sales divisions, but it's generally in line with the 25 major metros on any other list.
Q: So it includes ones in the State of California?
A: Yes, it does.
Q: And it includes the Boston metro area?
A: If Boston is part of the top 25 metro areas, it would include Boston unless there was a reason why we couldn't achieve that kind of GRP level there in Boston.
Q: Under some legal restriction you mean?
A: There is a lot of - Boston is a difficult market to purchase outdoor advertising in. There is not a lot of inventory available. There also are sections of the city that have banned tobacco and I believe alcohol advertising, and so there is limited inventory there.
Q: In the GRP per day for Camel cigarettes, is there a division among major metro areas in other parts of the country or no?

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A: No, not specifically, as I recall, in terms of planning it so that's where - in terms of a media strategy

Q: Do you know whether - and I know this isn't necessarily your area, but you work closely with it, so I'm going to ask you anyway. Do you know whether or not the advertising content differs between print media and out of home media for any of the RJR brands?

MR. BEACH: For what period of time?

MR. SOBOL: Currently.

THE WITNESS: Currently I don't know that there is a reason that it does, but I do know that there is a difference between the print advertising and the outdoor advertising currently for Camel and for Winston, and I believe that's the case as well for Doral.

BY MR. SOBOL:

Q: Do you know whether or not the targeted demographic group for Camel print media is different than the targeted demographic group for Camel out of home media?

A: Our media plans are developed on a specific target audience across the media plan, so there would be no difference.

Q: And that would be true of Winston and Doral as well then?

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A: That's correct.

Q: Now, in connection with LHC's calculation of GRP using the 18 plus population, is there any information imparted that informs Reynolds of the under 18 year old groups that would be part of the daily effective circulation?

A: There is no information imparting of that. To my knowledge, that information doesn't exist.

MR. SOBOL: I guess we need to go off the record.

(Recess was taken from 6:01 p.m. to 6:05 p.m.)

BY MR. SOBOL:

Q: The daily effective circulation derived by the Traffic Audit Bureau includes all persons, not just persons over 18, is that right?

A: I believe so. I'm not certain. I believe it's a traffic count primarily.

Q: And does RJR, specifically anybody within marketing operations, receive directly Traffic Audit Bureau reports containing daily effective circulations?

A: I have received on occasion some reports. I remember seeing them.

Q: Do the tactical plans prepared by LHC which contain summaries of the GRP, show what went into the calculation of that GRP number?

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A: The tactical plans do not, but R.J. Reynolds media reviews the calculation of GRPs at the end of every year because achievement of GRP delivery goals is one of the evaluation methods for whether or not Long, Hames & Carr achieves their incentive bonus at the end of the year.

We have quality and delivery incentive - we have a quality and delivery incentive bonus plan as part of our contract with LHC media. So we, R.J. Reynolds, audits how they calculate GRPs. I can tell you that we have thousands and thousands of billboards if you look at every month of a year, and so we do it on a kind of random, a random audit of how it was calculated.

Q: How often does the Traffic Audit Bureau report on daily effective circulations?

A: I am not entirely certain. I believe it is every six months. I know that the Print Audit Bureau of Circulation is every six months, and that's what I'm basing my answer on. I believe that's the same for the Traffic Audit Bureau.

Q: I guess that the repetition of these calculations of daily effective circulations actually gives you information on what the daily effective circulation was for out of home advertising that was

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already placed, is that fair to say?

A: Are you asking that -

Q: Let me put it to you this way. You have out of home advertising out there and the Traffic Audit Bureau is then performing an audit of daily effective circulations, right?

A: That's correct.

Q: So they could give you information back on the exposure or the daily effective circulation of the actual ads you have placed out of doors?

A: I suppose that is how they could use, but I mean the way it is used is that in a current planning time period we use the most recent Traffic Audit Bureau information that is available. I do want to interject here, too, that we don't get all of the - we don't, Long, Hames & Carr, does not pull all of the daily effective circulation, only from the traffic audit reports. All of the outdoor suppliers when they submit their proposals also show the daily effective circulation. LHC would certainly audit that against Traffic Audit Bureau reports.

Q: So in determining the daily effective circulation number which they used, does Long, Hames & Carr rely not only on the Traffic Audit Bureau but the media suppliers?

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A: Yes, but they would have to quote the source of. If they are quoting the daily effective circulation, what is the source.
Q: And do at times they use a compilation of more than one source in determining daily effective circulation?
A: I don't know for certain, but I would imagine. I think they use a combination of sources. Again, this Traffic Audit Bureau doesn't measure every form of advertising in every single market, so some of the information would have to come from the outdoor suppliers themselves along with how that was calculated.
Q: Does the Traffic Audit Bureau perform daily effective circulations in California?
A: I don't know every market, but I would assume that they have some California markets in their audit process, yes.
Q: And what about in Massachusetts, do they have that?
A: Again, I would just be making an assumption. My assumption would be is that they would.
Q: Do you know whether or not LHC has relied on any independent media suppliers in the State of California in determining daily effective circulations?

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A: I don't know for a fact. I'm certain that they probably have.
Q: And would you know the names of any of those media suppliers?
A: The ones that for whom LHC has relied on for daily effective circulation or do I know any supplier names in California? Can you clarify?
Q: Do you know the names of any independent media suppliers on whom LHC relies in determining daily effective circulations for out of home advertising in the State of California?
A: No, I do not.
Q: And what about in the Commonwealth of Massachusetts?
A: I don't know that.
Q: People at Long, Hames & Carr would know?
A: I would think that someone involved with Long, Hames & Carr would know how they would calculate it, how they determined the daily effective circulation for every unit that we have in California or in Massachusetts.
Q: Are you aware of any statistics developed by the Traffic Audit Bureau to give an age breakdown of the daily effective circulations?
A: I am not aware of that, no.

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Q: Are you aware of any age breakdown of the daily effective circulations done by any entity?
A: No, I'm not aware of that.
Q: That's not part of the - there is no statistic of age breakdown for daily effective circulations out there which RJR relies on in determining where to place its out of home advertising?
A: I'm not aware of anything that we use other than the GRPs per day as calculated as I told you.
Q: In implementing the media plan for out of home advertising, are there any steps which the media group takes to avoid targeting or influencing minors?
A: The media group at Long, Hames & Carr are you referring to?
Q: Your media group at Reynolds.
MR. BEACH: Object to the form of the question on the grounds that it's ambiguous. Why don't you clarify what you mean by influence, influence to do what? If you understand what he means, then answer the question.
THE WITNESS: I don't know what you mean.
BY MR. SOBOL:
Q: You oversee the implementation of the media plans for out of home advertising, say, in the State of California, correct?

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A: That's correct.
Q: What steps does the media group take, if any, to ensure that the out of home advertising in California is not influencing minors?
MR. BEACH: Let me object to the form of the question on the grounds that it assumes facts not in evidence that there is an influence. You can go ahead and answer the question, Ms. Ittermann.
THE WITNESS: If you are asking what steps do we take to assure that our out of home advertising is in compliance with our advertising codes, I can tell you that.
BY MR. SOBOL:
Q: Why don't you tell me that.
A: First of all, Long, Hames & Carr is fully aware of our advertising code. We review it regularly. The wording of our advertising code, as I told you previously, is clearly on our contracts. Suppliers, in giving proposals to Long, Hames & Carr, verify that the units are in compliance with tobacco advertising restrictions.
Whenever there is a new restriction on a local basis that such as a restriction that extends the 500 feet of the advertising code to 1,000 feet from a school or playground such as in California, we at

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Reynolds make sure that we understand the text of the legislation or settlement, whatever it is, and we review it with our government relations or law department to assure that we understand it.

We then send out an out of home alert to the entire media planning group and outdoor group at Long, Hames & Carr. We also send it to KBA advertising as information They, Long, Hames & Carr, send that alert out to all of their buyers, and for outdoor. It's noted on the contracts in the computer and it's put in so that any time a contract in that market is accessed it would automatically have that wording on there.

In addition, the Long, Hames & Carr - another thing we do to assure compliance with our industry advertising code or a more comprehensive restrictions if they exist locally, Long, Hames & Carr personnel does rides of a market, the out of home of a market on a regular basis. These are unannounced rides being that the suppliers don't know they are going to be in the market and they check for compliance.

R.J. Reynolds personnel as well occasionally will ride the markets, all of our outdoor locations to check for compliance, as well as to check that the correct advertising is posted, that the units aren't ripped and the supplier is not maintaining the

boards

The other thing that I could add that we have is that I have - we call it the outdoor hot line. It's a number that's dedicated for our sales force to call - it goes directly into my office to report anything that they see out of line with a billboard. They tell me the location, who the outdoor supplier is so that we can check it out. That's for our sales force's use.

Q: Who responds to the outdoor hot line?

A: I do.

Q: Have you received any complaints on the outdoor hot line originating from California in the last six months?

A: I have not received any complaints from our sales force in terms - in the last six months in terms of compliance with the industry advertising code. I have had some reports of some of our billboards that are not maintained correctly that may be peeling off because of excessive rain in the area.

Q: Have you received any complaints on the outdoor hot line originating from California that billboards or other outdoor advertising were placed within a thousand feet of schools or playgrounds?

A: As I just said, I have not had any calls in

the last six months from California that I recall that were specifically problems with compliance with any of our tobacco restrictions.

Q: Your earlier response, it will speak for itself, but I thought you said cigarette advertising code, and I wanted to make sure we were including the specific California restrictions?

A: The same would hold true, in California, I have not had any calls that I can recall in the last six months that have to do with Reynolds' billboards being out of compliance with the California tobacco restrictions.

Q: And that hot line is available only to the sales force? It's not available to the general public, is that right?

A: That's correct.

Q: Do you know if RJR has a hot line available to the public for complaints regarding it's out of home advertising?

A: I am not aware of anything specifically designated for out of home advertising. We have a number of total free numbers for smokers to call us if they have questions or complaints.

Q: What about non-smokers, do you have a number for them?

A: We have toll free numbers that are posted on our packs. We assume that that would be a smoker who would being calling. I suppose that that number could be seen by a non-smoker. I am just speculating here, though. We don't have a separate phone line.

Q: Have you received any complaints on your outdoor hot line originating from Massachusetts within this past six months regarding any compliance issues at all?

A: Not that I recall. I haven't received - as I recall, I haven't received any calls about Massachusetts recently from the hot line.

Q: I want you to take a look at Exhibit No. 8. It's a memo to you dated November 28, 1998 from Carl Haynes.

Have you had a chance to review that?

A: No, not yet.

MR. BEACH: Maybe to expedite matters, I wouldn't want to rush you because this is all important, but you could see what question he asks and if you feel that necessitates your spending more time reviewing the document you could do it that way. It is a long document and we are at the end of a long day.

BY MR. SOBOL:

Q: Let me ask you a couple of questions and I

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don't want to take away your opportunity to review the document if you feel you need to.
Do you recall ever seeing this before?
A: I don't specifically recall, which I'm certain that I did if it was addressed to me.
Q: You don't recall the last time you saw this document?
A: No, I do not.
Q: And who is Carl Haynes?
A: In 1988, Carl Haynes worked in our in-house media department in the out of home operations group.
Q: And in 1988, that was previous to development of the media plans being done at LHC?
A: That's correct.
Q: That was being done in-house at the time?
A: That's correct.
Q: And Carl Haynes was apparently part of that effort, is that right?
A: Carl Haynes worked in our in-house department in the out of home operations group.
Q: And he helped develop the media plans?
A: He - the way our media department was set up, the media plans were developed by us and the out of home operations group implemented the media plans for the Reynolds brands.

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Q: Do you know if a pertinent younger adult smoker out of house program was implemented in the areas listed in the first sentence of the second paragraph?
A: I don't recall if a permanent younger adult smoker out of home program was implemented in this market. For purposes of this, it was something that we were planning. It may have been. I don't recall specifically.
Q: What is a permanent younger adult out of the home program?
A: The term permanent would have been meant that we wouldn't have planned the use of outdoor for only specific time periods during the year, but we would leave it up continuously for the year. Younger adult smoker we have discussed previously. In 1988 that term referred to adult smokers 18 to 34, may in some cases have had a secondary emphasis of adult smokers 18 to 24, and out of home program is - out of home is just outdoor advertising, and program is really just a synonym for the plan, the out of home plan.
Does that answer your question?
Q: Sure. I will accept your answer, how is that? The last sentence of the third paragraph says "In all instances we are confident that areas frequented by 18-24 younger adult smokers have been identified and can

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be targeted with OOH." Do you see that?
A: Yes.
Q: Do you know the process by which Mr. Haynes identified the areas frequented by 18-24 younger adult smokers?
A: I don't know the specific process, if that's what you are asking me. The out of home operations group in 1988 did not report to me, so the full process, no, I can't tell you what that was.
Q: Do you have a general understanding of how it is that you identified those areas?
A: I have a general idea that suggestions may have been discussed about potential areas, but the fact is that the target audience of the younger adult smokers 18 to 24, would be the driving factor in the process of selecting the appropriate locations.
Q: What's the reference to KSBP in the next paragraph, do you know?
A: That's an abbreviation for king size bus posters, which is a form of out of home that is used.
Q: And what are Bluelights? Do you know what those are?
A: In this memo Carl is suggesting a creative idea. I don't exactly know what Bluelights are. I could guess.

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Q: I don't want you to guess. Let me ask you if Reynolds currently advertises on king size bus posters?
A: Yes, we do.
Q: Do you currently advertise in bus shelters?
A: In bus shelters, yes, that is a form that we use. All of these are forms that we use in selected markets that would not be in every market.
Q: Are you familiar, Ms. Ittermann, with John Pearce's article appearing this year in the Journal of American Medicine entitled Tobacco Industry Promotion Of Cigarettes And Adolescent Smoking?
A: No, I am not familiar with that.
Q: Are you familiar with any journal that came out within the last year concluding that advertising results in teenage experimentation?
MR. BEACH: Let me object to the form of the question. It's been a long day. This is outside of the scope of her designation. You haven't established that she would, in fact, within her job duties this is something she would do. I think these questions are inappropriate.
MR. SOBOL: I think it's relevant. She implements media plans.
MR. BEACH: Don't argue with me. I have

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objected to the form of the questions for the reasons that I have stated.
MR. SOBOL: You are coaching her.
MR. BEACH: I'm not coaching her and I object to your characterizations of my legitimate objections are out of line If you can answer his question, Patti, please go ahead and do so.
BY MR. SOBOL:
Q: Let me restate it for you and you can give your speech again.
Are you aware of any journal articles that have come out in the last year concluding that cigarette advertising results in teenage experimentation?
MR. BEACH: Object to the form of the question for the reasons that I previously stated. In addition, lack of foundation, it assumes facts not in evidence. Perhaps if you have an article that you want to put in front of her and ask her specific intelligent questions about, you can do so rather than play a guessing game.
MR. SOBOL: You are out of line, counselor.
THE WITNESS: I am not aware of any journal articles. I don't read journals such as the kind that that you are referring to on a regular basis, or I don't know if I ever have.

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BY MR. SOBOL:
Q: Are you aware of any research conducted that show that teenagers are drawn to those cigarettes that are most heavily advertised and not necessarily the lower priced generic cigarettes?
MR. BEACH: Objection to the form of the question on the grounds that it's well outside the scope of her designation for this witness, lack of foundation. It assumes facts not in evidence. Subject to those objections, you can answer his question.
THE WITNESS: I'm not aware of the research that you are talking about.
BY MR. SOBOL:
Q: Are you aware of research showing that 25 percent of teenagers surveyed own cigarette promotional material?
MR. BEACH: Let me object to the form of the question for the reasons I stated in response to the other questions.
when we started after this last break, Mr. Sobol, you had asked for an hour and a half. I have given you an hour and a half, save the five minutes that I had asked for.
You are now venturing into areas that are well beyond the scope of this witness and I object on a

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continuing basis to any questions like this which I can only view to harassing this witness and waste her time
MR. SOBOL: I'm not trying to harass this witness and your long speaking objections, not to mention the fact that we have consumed 90 minutes in extensive breaks and your being late when we first arrived and 12 minutes after lunch, all of which I have been cataloging.
So if time is a consideration to you, then why don't we just get an answer from the witness who has spent 23 years in the tobacco industry in the media promotion of cigarettes and ask her whether or not she is aware of any research regarding the effects of cigarette advertising?
MR. BEACH: Let me object to the question for the reasons I have specified in the past, beyond the scope of the designation of the deposition, assumes facts not in evidence. Counsel is apparently unwilling to put copies of such literature that purports to reach those conclusions in front of this witness. So the questions are in and of themselves fundamentally unfair. Subject to those objections if you can answer his question, do so.
MR. SOBOL: I don't think it's fundamentally unfair to ask whether or not –

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MR. BEACH: Your opinion about my objections, Mr. Sobol –
MR. SOBOL: Don't interrupt me. I didn't interrupt you.
MR. BEACH: Is besides the point. Let's finish this deposition. Answer his question if you can.
BY MR. SOBOL:
Q: The question regarding whether or not she has reviewed information in the public domain about the business she is in and the particular area in which she has conducted her professional life, I don't think is unfair.
MR. BEACH: Your opinions are irrelevant.
MR. SOBOL: And your opinions aren't relevant either, but you are stating them.
MR. BEACH: No, I'm not stating my opinions. I'm simply objecting to improper questions which I am entitled to do, and which I will do. Your prior comment is an attempt to testify in front of the jury which you are not entitled to do. You are entitled to ask fair questions. Please ask a fair question of this witness.
MR. SOBOL: We are not going to play my Colloquy or your colloquy in front of the jury. I want to know whether or not she is aware of research showing

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that 25 percent of the teens surveyed owned cigarette promotional material

MR. BEACH: I will reiterate my objection to that question for the reasons that I have specified before, not the least of which is lack of foundation.

THE WITNESS: I'm not aware of that research.

BY MR. SOBOL:

Q: Have you heard of research or are you familiar with a concept by virtue of your work at Reynolds that people who start smoking as teenagers are more likely to -

A: Your question is way outside my area of expertise and I am not aware of any research like that.

Q: Are you aware of any research showing that teens are especially susceptible to the effects of advertisement of cigarettes?

MR. BEACH: Let me object to this question as I have objected to each of the prior questions along this line. They are extremely inappropriate. They are outside of the scope of this deposition, lack of foundation. You are refusing apparently to put any purported literature in front of the witness, therefore, these questions are fundamentally unfair.

I believe that you are mischaracterizing

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probably decades of literature in your question. Subject to those objections, if you can answer his question, please do so, Ms. Itterman.

THE WITNESS: I'm not aware.

BY MR. SOBOL:

Q: Do you consider it part of your ethical obligation as someone who implements media plans for R.J. Reynolds Tobacco to determine what the effect of that advertisement would be on teens?

MR. BEACH: Object to the form of the question. I think that it's ambiguous and over-broad. If you understand it, and consider he is using terms that haven't been defined, you can go ahead and answer.

THE WITNESS: I don't understand it.

BY MR. SOBOL:

Q: As part of your responsibilities in executing the media plans for RJR cigarettes, do you feel it's part of your obligation to determine what the effect of that media plan will be on teenagers?

A: That is not part of my responsibilities because we do not do any kind of analyses of the effects of advertising. As we have - as I have testified previously, my responsibilities include media planning and placement of our brands' advertising.

Q: So you don't personally do anything to

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determine what the effect of that advertisement which you place has on teenagers, do you?

MR. BEACH: Object to the form of the question. It's argumentative in tone, asked and answered. You can answer it again, if you like.

THE WITNESS: Could you repeat it?

BY MR. SOBOL:

Q: Yeah, I will repeat it for you. You don't engage in any specific efforts on your own in your role as the person responsible for implementing the media plans to determine what the effect of those media plans would be on teenagers, do you?

MR. BEACH: Object to the form of the question for reasons I have stated in response to prior questions.

THE WITNESS: As I stated previously, I - that's not a part of my responsibilities or my role at Reynolds. My role is the media planning and placement, not research.

BY MR. SOBOL:

Q: So you don't engage in any of those efforts -

MR. BEACH: Did you finish your answer to your prior question?

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THE WITNESS: No, I didn't. I was saying that my role does not comprise research to the effectiveness of advertising, and I had stated that previously. I'm not the best person to talk to about that.

MR. BEACH: Counsel, it's now 6:30. I have promised this witness that she would be done at this point in time because she has another obligation this evening. I asked an hour and a half ago for five minutes of time.

MR. SOBOL: And you have taken like ten.

MR. BEACH: Well, you understand that the time I asked for was to pose a few questions on redirect. Are you done?

MR. SOBOL: I have not yielded my questioning yet.

MR. BEACH: How much more do you think you have to go?

MR. SOBOL: I will stop right now.

MR. BEACH: We'll continue right into this.

EXAMINATION BY COUNSEL FOR DEFENDANT
R.J. REYNOLDS TOBACCO COMPANY

BY MR. BEACH:

Q: Ms. Itterman, you have been employed, correct me if I'm wrong, by R.J. Reynolds Tobacco

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Company since 1975, is that correct?
A: That's correct
Q: That's about 23 years, is that correct?
A: Yes
Q: And you have been involved in media planning since 1981?
A: That's correct.
Q: A great number of years, is that correct?
A: (Witness nods head.)
MR. SOBOL: Objection.
BY MR. BEACH:
Q: Do you believe - in your heart, have you conducted yourself in an appropriate, honest and ethical manner since you have been with this company?
MR. SOBOL: Objection to the form of the question, over-broad, vague, ambiguous, assuming facts not in evidence.
MR. BEACH: You can answer if you understand it.
THE WITNESS: Yes, I believe that I have.
BY MR. BEACH:
Q: During the 23 years that you have been with Reynolds, have you ever attended a meeting where the subject of how to market to minors was discussed?
A: Never.

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Q: During the 23 years that you have been with R.J. Reynolds Tobacco Company, have you ever attended a meeting where the subject of getting non-smokers to start smoking was discussed?
A: Absolutely not.
Q: During the 23 years that you have been with R.J. Reynolds Tobacco Company, have you ever been asked to or asked anyone else to implement marketing with the purpose of targeting either minors or non-smokers?
MR. SOBOL: Objection to the form of the question, vague and ambiguous, assuming facts not in evidence.
MR. BEACH: If you understand my question you can answer it.
THE WITNESS: No.
BY MR. BEACH:
Q: Earlier in your deposition you were shown an exhibit, Ittermann No. 7, and you asked for an opportunity which opposing counsel declined to explain the - I believe you used the word effusiveness of your remarks at the top of the page. Could you briefly do so. I do apologize we have taken you beyond the time that we promised you you would be out of here.
MR. SOBOL: Objection to the form of the question, mischaracterizes her testimony, argumentative.

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THE WITNESS: I did ask to explain because I did want the opportunity since it was read into the record to explain why I would have written such an effusive note to this person, Gabe Gabriel.
The person, Gabe, was characterized at the time as somewhat of a problem employee. He had difficulty writing. I was overenthusiastic in my positive criticism of his memo, but I wanted to also point out since it is also read into the record, that I have stated let's discuss before you give to Carla, who as I testified was our secretary at the time and would have retyped the final draft.
I am certain that the reason I wanted - asked Gabe to discuss it with me personally was so that I could correct his usage of the term younger adult target because he did not put in younger adult smoker, which was very critical to us and which all of us at Reynolds feels really important.
That was a mistake he had made. I did not want to write that criticism in the same - specifically in the same note where I was phrasing that he had addec a sense of conviction to his recommendation.
BY MR. BEACH:
Q: Just a couple of questions about some of the questions you have been posed over the last several

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hours of your deposition.
You have been asked about media plans and media tactical plans in numerous ways over these last several hours, correct?
MR. SOBOL: Objection to the form of the question, mischaracterizes her testimony.
THE WITNESS: Yes.
BY MR. BEACH:
Q: Do you recall being asked questions by Mr. Sobol about media plans and media tactical plans today?
A: Yes.
Q: Dozens of such questions perhaps?
MR. SOBOL: Objection.
THE WITNESS: A number of questions, yes.
BY MR. BEACH:
Q: Has he shown you a single media plan during this deposition today, ma'am?
A: No, he hasn't.
Q: Has he shown you a single media tactical plan during today's deposition?
A: No.
Q: Now, finally, he asked you some questions about, as I counted it, seven periodicals including one way which was marked as an exhibit. As a ball park basis, what percentage - how many periodicals does

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Reynolds publish advertising in?
MR. SOBOL: Objection, misstates testimony.
THE WITNESS: In the current year we are using approximately 300 publications.
MR. BEACH: That's all I have. Thank you very much for your time, Ms. Ittermann.
MR. SOBOL: I have a chance to engage in redirect at this time. It's my right under both California and Massachusetts.
MR. BEACH: Go right ahead, Mr. Sobol, and ask your questions.
FURTHER EXAMINATION BY COUNSEL FOR PLAINTIFFS
BY MR. SOBOL:
Q: I didn't show you any media plans or any media tactical plans today, isn't that correct?
A: That's correct.
Q: And, in fact, you don't recall the last time you saw a media plan, is that right?
A: You are asking me the last time I saw a media plan?
Q: Yes.
A: I do recall when was the last time I saw a media plan.
Q: When was the last time you saw a marketing plan?

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MR. BEACH: Object to the form of the question as outside the scope of the cross. You had a chance to go through these areas ad nauseam. Why don't you limit your questions properly.
MR. SOBOL: A yes or a no would have been a lot quicker.
THE WITNESS: You are going to have to rephrase it.
BY MR. SOBOL:
Q: Do you recall the last time you saw a marketing plan?
A: If I ever saw the complete marketing plan, which I don't recall ever doing, I don't recall when.
Q: The document which you had handwritten notes on top which you took the time to explain on cross-examination, that was a document you reviewed with counsel, isn't that what you testified to earlier today?
MR. BEACH: Let me object to the form of that question on the grounds that it misstates her testimony, and besides, I'm going to instruct you not to answer questions about what we reviewed or didn't review.
MR. SOBOL: Even though that's already on the record you are not going to let her answer that?
MR. BEACH: No. Your characterization of what's on the record is inaccurate, but in any event –

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BY MR. SOBOL:
Q: Ms. Ittermann, do you think it's ethical and appropriate for a cigarette company to make decisions on where to place its advertisements without knowing the percentage or numbers of minors who are exposed to that advertisement?
MR. BEACH: Are you talking about Reynolds? Object to the form of the question on the grounds it's ambiguous. To the extent it purports to characterize her prior testimony, it fails to do so accurately. I object on those two bases.
BY MR. SOBOL:
Q: Do you believe it's ethical and appropriate for Reynolds to engage in decisions as to where to place its cigarette advertising without knowing the percentage or numbers of minors who are exposed to that advertisement?
A: I don't know how to answer that question to answer for my entire company. I know that we do everything we can to assure that our advertising appears only in publications that are primarily adult readers. We work very hard to make sure that we do the right things, and that our advertising is addressed and focused against adult smokers over the age of 21.

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Q: And all those efforts are made without knowing the numbers and percentages of minors who are exposed to that advertising, is that correct?
MR. BEACH: Objection to the form of the question. First of all, it's now again outside the scope of the direct. Secondly, it's asked and answered. If you want to revisit what you explained to him in the past –
THE WITNESS: We talked about this before.
BY MR. SOBOL:
Q: On cross-examination you were asked whether or not you engaged in ethical and in an appropriate manner, and I'm asking you whether or not you think it's ethical and appropriate to place cigarette advertisement in media for which you don't know the absolute numbers or percentages of minors exposed to that media and you have given me an answer that –
MR. BEACH: Objection to counsel's testifying. This whole subject area has been well furrowed and dealt with.
MR. SOBOL: I will tell you what, I will suspend the deposition and reserve my right to seek an order from the appropriate court to admonish the witness to give me a direct answer to the question of whether or not she believes it's ethically appropriate to place

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cigarette advertising in media for which you don't know the absolute numbers of minors exposed to the advertisement, the percentage of minors exposed to the advertisement, and we'll suspend on that basis

MR BEACH As far as I'm concerned, this deposition is concluded and make your motion to the court Good luck

(Signature reserved)

(Whereupon at 6 52 p m , the taking of the instant deposition ceased)

Signature of the Witness

SUBSCRIBED and SWORN TO before me this _____ day of _____, 19__

NOTARY PUBLIC

My Commission expires _____

ERRATA SHEET

RE THE PEOPLE OF THE STATE OF CALIFORNIA, ET AL V
R J REYNOLDS TOBACCO COMPANY, ET AL
DEPOSITION OF PATRICIA ITTERMANN

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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA)
COUNTY OF MECKLENBURG)

I, Andrea L Nobrega, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me, that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction, that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action

ANDREA L NOBREGA
Court Reporter and Notary
Public in and for
North Carolina

My commission expires 11-25-01

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